Vol. 50

1983-1984

Pgs. Not Cons.

DISCUSSION RELATIVE TO FIRE EMPLOYEES REPORT PRESENTED MAY 24, 1983

Mayor Trantham said the members of City Council had reviewed the report submitted by the fire department employees, however a complete study of the report would not be complete for about twelve (12) to fifteen (15) days.

The City Manager said a meeting was held on May 30, 1983 with Chief Ball, the Assistant Chiefs, and representatives of the firefighters to go over the concerns of the firefighters. He said that he felt it was at a point where it may be appropriate for a third party to sit down and take a look at these concerns. He suggested that the City arrange a meeting with Mr. Sherman Pickard, a fire department specialist with the North Carolina League of Municipalities, to meet with the City Manager, Chief Ball, the three (3) Assistant Fire Chiefs, and representatives of the local firefighters. He said he would proceed to contact Mr. Pickard for such a meeting.

Mayor Trantham spoke in support of the City Manager's suggestion.

David Warren, from the Fire Department, requested that an official from the international firemen's union be allowed to attend the session with Mr. Pickard and others mentioned by the City Manager.

Vice-Mayor Price said she felt the matter should be kept locally.

The City Manager said he intends to limit the meeting to Mr. Sherman Pickard, Chief Ball, the three (3) Assistant Fire Chiefs, and representatives of the firefighters locally.

Mr. David Anders, from the Fire Department, objected to the City Manager requesting a meeting with Mr. Sherman Pickard. He said he felt Mr. Pickard would just agree with the City Manager and Chief Ball.

Mayor Trantham assured the firefighters attending the meeting that members of Council have mixed feelings about the report and that the firemen would be given a "fair shake."

Mr. David Anders said the firemen would reserve the right to protest the meeting.

PRESENTATION OF FISCAL 1983/84 CITY OF ASHEVILLE ANNUAL OPERATING BUDGET

2. The City Manager presented the fiscal 1983/84 City of Asheville Annual Operating Budget to members of Council. He thanked members of Council for their special efforts given to this budget since January, 1983 and for taking the time to review the individual departmental budgets.

The City Manager highlighted the following budget message:

Tuesday, May 31, 1983 - 4:00 p. m.

Regular Meeting

Present: Mayor Roy M. Trantham, Presiding; Vice-Mayor Norma T. Price, Councilwoman Mary Lloyd Frank, Councilwoman Wilhelmina B. Bratton, Councilmen Gordon Myers, Joe Pless and Larry McDevitt; Corporation Counsel William C. Moore, City Manager K. M. Michalove; Deputy City Clerk Carol Hensley.

Absent: Associate City Manager/City Clerk William F. Wolcott, Jr. (vacation)

INVOCATION

The invocation was given by Mayor Roy M. Trantham.

APPROVAL OF THE MINUTES

1. Approval of the minutes of the May 24, 1983 meeting.

Upon motion of Councilman McDevitt, seconded by Vice-Mayor Price, the minutes of the May 24, 1983 meeting were unanimously approved as submitted.

LETTER PRESENTED BY MR. BHAGU PATEL - OWNER OF DOWNTOWNER MOTOR INN

Mayor Trantham recognized Mr. Bhagu Patel, Owner of the Downtowner Motor Inn, who read the following letter:

Downtowner Motor Inn
120 Patton Avenue
Asheville, North Carolina
May 30, 1983
Telephone: 254-9661

Mayor Roy M. Trantham, City Council
and Chief of Police Fred Hensley
City Hall at City-County Plaza
Asheville, North Carolina

Dear Friends of Downtowner Motor Inn,

May I express my appreciation to each of you for your cooperation in cleaning up the problems alluded to earlier along Asheland Avenue and in the vicinity of the business I own, the Downtowner Motor Inn. Your efforts in behalf of better business conditions in this section of the downtown area will help to improve our image as a viable business, and the quality of life for our thriving city. Our guests will now not be afraid to take strolls in this part of town. It will enhance our business-city relationship since the good offices of each of you made the proper response to the bad situation that previously existed. Your collective efforts were commendable and in the best interests of a clean, street-safe city.

I am happy to know that we have local government which rises to the occasion and banishes local menaces. This restores my confidence in free institutions everywhere. Thanks to the advice of my local friend, Joe L. Morgan, JD, I contacted you and got positive results. Incidentally, I hope that each of you will continue to monitor or follow up on the situation and not let it rise again as a menace to the businesses thereabout. Again, thanks very much for all that you all have done.

Sincerely, /s/
Bhagu Patel
Owner, Downtowner Motor Inn

THE CITY ORGANIZATIONAL AND SERVICE DELIVERY SYSTEM

In order to give you and the public a mental image of the size and complexity of our operations, the following is a brief summary.

The Asheville City Government is a large diversified enterprise that provides services not only to residents of the City of Asheville, but to all of Western North Carolina.

We are a council/manager form of government with seven council members elected at large by the public every two years. The mayor is elected by the council and the council selects the city manager, the city clerk, and the city attorney. The general division of responsibilities is that the council sets the policies for the city and the manager carries out the policies through day to day operations.

I have established a decentralized approach to management by making the department head of each major function responsible for the day-to-day functions of that department and as independent as practically possible from the City Manager having to make day-to-day decisions about their operations. The organizational structure (see attached chart) is divided into public services, operational support services, and community improvement services.

Public Services are Police, Fire, Parks/Recreation and Public Facilities, Public Works, Water/Sewer Services, and the Civic Center. These are services that citizens receive directly on a day-to-day basis.

Operational Support Services are Finance, Management Services, and the functions of the Corporation Counsel, the Associate City Manager/City Clerk, and Audit and Budget. These are centralized services that help the public services and community improvement services operate and provide information for policy decisions.

CITY OF ASHEVILLE

ASHEVILLE, NORTH CAROLINA

OFFICE OF
CITY MANAGER

May 31, 1983

The Honorable Mayor and
Members of City Council
City of Asheville
Post Office Box 7148
Asheville, North Carolina 28807

Dear Mayor and Members of Council:

Submitted herewith are the budget estimates for Fiscal Year 1983-84, which begins July 1, 1983. The budget was prepared according to the provisions of the Local Government Budget and Fiscal Control Act, as amended.

In accordance with this act, a copy of the budget will be filed in the office of the City Clerk, "where it shall remain available for public inspection until the budget ordinance is adopted." The act also requires that the City Clerk publish a statement that the budget has been submitted to the governing board and is available for public inspection in his office. The statement shall also give notice of the time and place of a required public hearing. As a matter of local practice, the budget ordinance is read three times before adoption. The law requires that it be adopted "not earlier than ten days after the budget is presented to the board and not later than July 1." Changes may be made in the budget at any of the three readings, and with the exception of the tax rate, any other budget item may be changed by ordinance amendment anytime during the fiscal year.

2. We have over 400 miles of streets.

3. We serve 54,000 people in over 28,000 dwellings and businesses, 24 hours a day, 7 days a week.

4. We have 651 full-time employees excluding the Water and Sewer Services Department and a large number of part-time employees. (Part-time employees generally are hired as needed for special functions such as Civic Center ushers, summer workers in parks, laborers for leaf and brush services and summer street and right-of-way cleaning in the Street Division.)

5. We maintain over 660 acres in 37 different parks.

6. It costs $982,183 annually just for street lights.

7. We answer over 2,800 Fire Department calls per year.

8. We answer over 73,000 Police Department calls per year.

9. We pick up over 40,000 tons of garbage per year.

10. We serve over 30,000 water customers and supply 20,000,000 gallons of water per day.

11. We serve over 600,000 annual recreation participants per year.

12. We serve at least 400,000 annual participants at the Civic Center per year.

SOME MAJOR EXAMPLES OF BUDGETARY MATTERS AFFECTED BY PREVIOUS MANAGEMENT/COUNCIL DECISIONS

Community Improvement Services are Planning, Community Development, and Economic Development. These are the centralized services that help public services operate, carry out and design plans for the present and future, and provide information for policy decisions.

Through the establishment of the Asheville Airport Authority and signing of the Asheville-Buncombe Water Agreement, the city council and the operating functions of the city staff are moving away from the city's former role of providing numerous services beyond the corporate limits of the city and more to providing direct services within the corporate limits. However, there are several functions that still remain that are broader in scope than just the corporate limits and which, to some extent, serve beyond the city limits. Some of these services include zoning, leisure time/-recreation, water, staff assistance to other municipalities and counties, mass transit, community relations, Rescue Squad, Data Processing, Civic Center, Planning, Economic Development, Police, and Fire.

There are five enterprise and/or intergovernmental service functions that operate from charges for service to city departments and/or the public. These are the Water Department, the Motor Transport Division, the Print Shop Division, the Engineering Division, and the Data Processing Division.

The following are some basic statistics about the city which are important to budgetary considerations:

1. Our municipal service area is approximately 25 square miles; The June 30, 1983, annexation of Ascension Drive, Johnston School Road, and Riceville Road will add two (2) square miles and this will increase by three (3) square miles when the annexations of Chunns Cove, Patton Avenue, and Sweeten Creek Road are approved.

The status of these plans at this time is:

a. Effective January 1, 1979, the employees and beneficiaries of the Fire Plan voted to change their retirement program to the North Carolina Local Governmental Employees Retirement System (LGERS).

b. The definitions of "disability" and "retirement age" in the 1939 Police Plan were changed by the 1979 General Assembly.

c. The active and retired members of the 1939 Police Pension Plan voted in 1978 not to transfer their membership to LGERS or the Law Enforcement Officers Benefit and Retirement Fund (LEOBRF).

d. The Fiscal 1983-84 actuarial funding requirement of the 1939 Plan is approximately $650,000 for about 88 active employees, which works out to a cost per employee of $7,386, while the pension cost for all other city employees is $905,615, which works out to approximatley $1,344 per employee.

e. Had the 1939 Police Pension been funded since inception with employer contributions according to the original provisions of the plan, the current costs would not be so disproportionate with other plans.

2. Use of Federal Funds (Model Cities, Community Development, Bureau of Outdoor Recreation, Urban Renewal, ARC, EDA, LEAA, etc.) These funds have improved materially the quality of life in our city and slowed considerably the physical decay in numerous blighted areas that we would probably never have been able to improve otherwise.

There are certain realities over which we have no control. The budget process for Fiscal Year 1983-84 really began years ago with the decisions made then. Our status at this point in time reflects the policy and administrative decisions of this and previous city councils, city managers, federal and state laws and the attitudes and desires of the general public. This simply means that there are numerous activities in which we are now involved which we had no say in establishing, but which we now have an obligation to continue. To dwell on whether those past decisions were good or bad would not be fruitful, but we should be aware of these decisions and their impact when making future fiscal and management plans. Remember, this budget generally reflects a time span of twelve months, but the final decisions we make this year will again prepetuate policy and administrative direction far into the future. Some examples of major budgetary matters affected by previous management/council decisions are as follows:

1. 1939 Police/Fire Pension Plans - In Fiscal Year 1976-77 the City Council took a giant step forward by freezing these plans to current membership and beginning actuarial funding of the Police/Fire Pension Plans started in 1939. Up to that time, the funding had been on a "pay-as-you-go" basis, which did not materially affect the budget while employees were young and able. However, we were arriving at a point when the employees were reaching retirement age and disabilities were increasing, and the "pay-as-you-go" system would soon have put the city into a position of using very large amounts of operating money to fund the retirement benefits. It was a courageous and fiscally responsible action that City Council took in recognizing the need to provide actuarial funding for these retirement programs, to assure the employees of their benefits, and to save future administrations the disproportionate costs inherent in "pay-as-you-go" funding.

available through a federal grant program to subsidize one half of our operating loss. In fiscal 1983-84 this subsidy is estimated to be $404,810. In 1978 the City Council increased the fee for city stickers from $1.00 to $5.00. This will generate $158,000 in 1983-84 to offset losses in the bus system. However, we will still have a net subsidy of $280,727.

In addition, we submitted an application to the federal and state governments to replace 10 buses in 1974. The price per bus was $41,233 at that time. We finally received the buses in 1982 at an average cost of $83,518 each.

The 1983-84 proposed budget is approximately the same as the 1981-82 operating loss, however, the future of federal and state funding is uncertain and there is currently no provision for replacement of other buses, equipment and facilities.

4. Governmental and Nonprofit Organizations - Many governmental and non-profit organizations have chosen to locate inside the Asheville city limits because of the services the city provides at no expense to those agencies since they are tax exempt. On the other hand, tax paying residential and business development is primarily taking place outside the city limits. The loss in ad valorem tax from tax exempt properties is probably at least $1,000,000 per year.

5. Annexation Moratorium and Proposed Annexation - For more than four years, the city was under a local annexation moratorium imposed by the General Assembly. This moratorium denied the city the opportunity to annex urbanized unincorporated areas

In the area of recreation projects alone, while we were able to upgrade many existing parks which had not been adequately maintained, we also added new facilities which have added at least $500,000 in continuing annual operational expense to support the facilities constructed with these funds. Examples are the Senior Opportunity Center, Shiloh Recreation Center, Montford Recreation Center, and Livingston Street Recreation Center. These improvements brought about an important change in our recreational service philosophy. Now, in addition to our seasonal outdoor recreation programs, we have a new emphasis on large and expensive indoor recreation centers.

For the past three years the status of federal grant programs has been changing or they have been eliminated. The city has used federal funds for a variety of improvements thus eliminating the need for bond issues and numerous ad valorem tax increases for these needed improvements. If the trend for funding federal grant programs continues, the burden will shift to the city to provide funds for these purposes. The average city resident does not realize the millions of dollars in federal funds that have gone to make basic improvements to streets, sidewalks, water, sewer, fire, recreation and other basic services which were not funded by ad valorem taxes.

3. Asheville Transit Authority The City of Asheville assumed the operation of the bus system in 1967. Through federal grants and a bond issue, we acquired a new building and new buses. From 1967 to 1970 our losses were zero. In 1983-84 our gross loss is estimated to be $843,545. However, to help offset this loss, operational subsidies are

A. General Funds - These funds include the General Fund, the Civic Center Fund, and the Parks, Recreation and Public Facilities Funds which comprise the major general governmental functions and are supported by ad valorem tax.

B. Water Fund - The Water Fund is an enterprise fund and accounts for water operations as provided by the Water Agreement.

C. Sewer Fund - The Sewer Fund accounts for city sewer maintenance and is funded by a contribution from the Water Fund as provided by the Water Agreement.

D. Intergovernmental Service Funds - Included are City Engineering, Data Processing, the Print Shop, and Motor Transport. These activities are accounted for as enterprises and funds are provided through charges for services to other city activities as well as outside organizations.

E. Community Development Fund - This fund accounts for Community Development Block Grant monies and is, by law, a capital-type, budgetary fund. The budget is approved by separate action of Council following federal guidelines.

F. Various Capital Funds - Capital Funds include appropriations for special projects and budgets are approved for those projects as the need arises. These funds include the General Capital Projects Fund, Federal Capital Projects Fund, the Sinking Fund Reserve, the Public Building Bond Fund, the UDAG Fund, the Asheville-Buncombe Revitalization Fund, and the Economic Development Trust Fund.

The budget components for the operating funds submitted herein are displayed in columns as follows:

of the county which were developed and have prospered due in a large part to their proximity to the City of Asheville and their access to needed city services.

This artificial restriction of Asheville's natural growth affected not only ad valorem tax receipts but many state and federal-shared revenues, since the allocation of such revenues is based on population growth, local tax effort, and the relative size and growth of our city compared to other cities and to the county. The annexation moratorium ended July 1, 1979, and the city began an effort to extend services in an orderly manner.

6. Civic Center - The Civic Center has been and continues to be an excellent entertainment, cultural, and convention resource for all of Western North Carolina. However, the net operational cost and debt service cost to be borne directly by the city for Fiscal 1983-84 is projected to be $601,998. This cost is net after the $160,800 for civic arts is subtracted. This amount was assumed by the Buncombe County Commissioners as a result of the Water Agreement.

7. The lack of definite policies of previous councils and administrations regarding capital needs have led to many of our current major problems. Street paving, sidewalk construction, bridge repair, and storm drainage are examples of major problems which must be financed.

BUDGET SUMMARY

This section of the budget message will provide information on the major components of revenue and expense for the various budgets that make up the operating and capital activities of the City of Asheville. These funds are:

3. That service levels should remain the same.

The advantage of this is that a great deal of frustration is eliminated in trying to reduce from an unrestricted condition of "what are the needs" to "this is all the money there is do the best you can with it."

The disadvantage is that as years roll by the general public and future City Councils begin to wonder "why are the streets an sidewalks in such poor condition, why doesn't the city provide this or that service anymore, why are the city buildings needing major improvements all of a sudden, why does it seem that the city is always trying to figure out ways not to do something and making the rules and bureaucratic conditions so difficult?"

b. We will retain a one million dollar cash flow (unappropriated fund balance) - an amount equal to about two weeks of operation.

c. The 1939 Police Pension obligation is funded in the Police Department with the actuarial payment schedule adjusted from a 20-year to a 30-year payoff retroactive to Fiscal Year 1982-83. Since other departments are on the state retirement system, this needs to be taken into consideration when comparing overall police expense to other department budgets. Were the entire Police Department on the same retirement program as other departments, the Police Department budget would be reduced by approximately $445,000. However,

Department/Division Activity

1981-82 Actual - The 1981-82 actual is the amount actually received or spent for the Fiscal Year ended June 30, 1982.

1982-83 Budget - This is the amount approved by Council (as amended) for Fiscal 1982-83.

1982-83 Estimated - This is the amount estimated to be received or spent through June 30, 1983.

1983-84 Requested - This includes the preliminary budget estimates or requests submitted to the City Manager by departments.

1983-84 Recommended - This is the City Manager's recommended budget for Fiscal 1983-84 submitted to Council after "fine tuning" the departmental requests and incorporating the preliminary Council decisions.

A. GENERAL FUND

1. Overview

a. The general directions to department heads in preparing the budget for 1983-84 were:

1. That operating costs for each department would not exceed the 1982-83 budget.

2. That no new position should be included in requested funding.

e. Significant facts pertaining to personnel:

1. There is a continuation of current fringe benefits and pay plans for employees; however, there is no across-the-board salary scale adjustment planned for 1983-84. An example of what an across-the-board adjustment would cost is that for each 1% - $118,915 would be needed, a 5% would cost $594,576. Even though this is the second year we have not had an across-the-board adjustment, I cannot recommend one this year for the following reasons:

   - Our studies indicate that we are paying competitive wages compared to local industry and business and the cities we are comparable to.

   - While others have had layoffs or short work weeks, we have not had to do this.

   - While others are considering across-the-board increases this year, those organizations have generally not had or been able to continue their step increases, special studies for jobs that are not receiving comparable pay, longevity pay, and/or special job classification/career development programs as were done in the Fire Department and Police Department this past year.

   However, I do feel that this is an area we will need to continously study so that we do maintain comparable pay programs.

this is done this way as a matter of budget approach citywide and is not a matter of department head discretion or a negative reflection on that department and staff.

d. Significant facts pertaining to ad valorem tax:

1. We have a total General Funds annual budget of $20,703,799 of which only $7,910,644 comes from ad valorem tax; based on a tax base of approximately $1,457,000,000.

2. The budgeted ad valorem property tax of $7,910,644 for 1983-84 does not cover the budgeted cost of $9,006,000 for police, fire, and garbage collection.

3. The budget anticipates an ad valorem tax rate of 59¢/$100 which is the same as the rate set for 1982-83.

4. A penny added to the tax rate for 1982-83 yielded $126,214 and a penny on the tax rate in 1983-84 is expected to yield $134,079.

5. The collection rate for ad valorem taxes for 1983-84 is estimated to be 92%. We estimated the 1982-83 collection rate at 94%. Both of these estimates are still far below the state average for large cities and counties. Each 1% increase in collection rate will yield $85,985 in additional ad valorem revenue.

c. Severe weather conditions - We have been lucky in recent years that we have had mild winters and minor flooding.

d. Future federal and state budget decisions can affect grants used for fulfilling capital and operational needs (streets, water, sewer, buses, recreation).

e. Settlement of lawsuits - Cauble suit, annexation, several personnel-related matters.

f. The budget is still too dependent on federal funds for routine equipment replacement, public works, and maintenance of facilities. This will be highlighted further under the capital needs section of this message.

g. Because of limited capital reserves, we cannot do an adequate job of maintenance to streets, sidewalks, buildings, storm sewers, etc. This will also be discussed further under the capital needs section of this message.

f. We plan to annex the areas of Ascension Drive, Johnston School Road, and Riceville Road effective June 30, 1983. Annexation of the Patton Avenue, Chunns Cove, and South Buncombe areas is still in litigation at the Court of Appeals level. Funds for providing services to these areas are contained in the Sinking Fund, Capital Reserve, the Sewer Fund, and the Water Fund.

g. We plan to balance the General Funds by using $950,692 in fund balance. If we were operating on a fiscally sound basis, a 7¢ tax increase would be required. In previous years, fund balance was used to balance budgets, but because the budget esti-

2. Labor needs continue to be shifted to hiring for peak demands, eliminating full-time positions when vacancies occur and using part-time employees when possible. Examples of this are as follows:

   In 1979, we had 763 full-time employees and as of May 30, 1983, we had 654 full-time employees. The total number of full-time employees hired in Fy 1982-83 was 26 of which 18 were police officers and 8 were in other categories. This would compare to approximately 100 full-time new hires 5 years ago.

   For FY 1983-84 I have budgeted 10 vacancies as compared to 50 vacancies in 1982-83. This is because we only hired 26 full-time people in 1983 and this is no longer a major budgetary consideration.

3. Organization and reorganization will continue to be key elements of management particularly when vacancies occur. We will evaluate each position to determine if we can accomplish the work by transferring the work to an existing, a lower, or a part-time position.

2. Concerns

   a. Potential for tax appeals such as public utilities appeals which held up tax payments in 1978-79.

   b. The economy - particularly if fuel prices and utility prices go beyond our estimates, or revenue projections fall short. For example, in January the price of unleaded gas was .8552 a gallon, now it is .9373 a gallon.

j. Significant matters relating to revenues:

1. The Water Agreement called for the county to reimburse the city for the cost of law enforcement included in county ad valorem taxes but provided outside the city. This amount was estimated at $402,500 for 1982-83 but it appears that we will receive only $347,032 for 1982-83 and the 1983-84 estimate is $730,000 rather than the $805,000 originally estimated.

2. Local Option Sales Tax and State Intangibles Tax are distributed between the city and county based on relative tax levies. Since the city reduced its 1982-83 levy and the county had a significant increase in its levy, we will lose over $300,000 in these taxes to the county in 1983-84.

B. WATER FUND - While the City Council has yet to review the Water Fund, that budget was adopted by the Water Authority on May 17, 1983, and it is now up to the Buncombe County Commissioners and the Asheville City Council to deal with it in accordance to the Water Agreement. The Agreement states "...upon review and approval by the Authority, said budget shall be submitted to the County Commissioners and the City Council on or before June 1 of each year for review, consideration, and approval, each acting in formal session..."

The budget contains the following major items:

1. Continued management and administrative services provided by the city are budgeted according to the terms of the Water Agreement.

mates were so conservative on revenues and expenditures, no fund balance was actually spent. For 1982-83 it appears that we will actually spend over $400,000 in fund balance. In other words we will have a real cash deficit from operations for this year. The revenue and appropriation estimates for Fiscal 1983-84 are extremely tight and likely will result in more actual spending of fund balance. Future Councils will be faced with seeking additional funds to maintain services at the present levels.

h. Our General Fund contigency is $200,000.

i. Significant contributions made to other entities:

1. Animal Control - Approximately $34,000 for this service is currently in the Police Department Budget. This is a function that should be done on a countywide basis.

2. Asheville City School - While the city's legal responsibility is to name members to the School Board, the city provides two floors and some other space in the City Building and outlying areas and over $30,000 in costs for school crossing guards.

3. County of Buncombe - There are no funds budgeted for the county tipping fee; however, the city provides numerous services to the county for which we make no charge. Therefore, it is assumed that there is more than a sufficient amount of services to offset what the city would pay as a tipping fee.

3. Sewer system maintenance and development lacks sufficient policies for the management of the system.

4. The sewer system lacks a master plan for future development.

D. COMMUNITY DEVELOPMENT FUND - The Council approved the use of these funds on March 22, 1983, for the 9th Action Year. Opportunities to amend this budget and previous action years come up from time to time and are based on recommendations from the Community Development/Housing Authority Committee of the Council.

1. The majority of these funds will be used to continue the East End/Valley Street Project.

2. Some funds are designated for downtown development. However, the majority of funds anticipated for the current program for downtown will come from Urban Development Action Grants (UDAG). These funds will be applied for and are not currently reflected in the budget.

3. The Economic Development Department will be funded through Community Development through a contract between the City and the Asheville Area Chamber of Commerce. The contract will be from June 1, 1983 through September 30, 1984.

4. Historic Resources activities will be funded from Community Development in the amount of $7,500. This funding will be transferred to and administered in the Planning Department Budget.

2. Sufficient funds to meet the obligations of annexation for Chunns Cove, Sweeten Creek Road, and Patton Avenue once the court case is settled.

3. Sufficient funds to meet the obligation of annexation for Ascension Drive, Johnston School Road, and Riceville Road.

4. Payment in lieu of tax of $862,779 or 8.75% of water revenues to the General Fund. This is a reduction of $82,701 from FY 1982-83 based on the provisions of the Water Agreement.

C. SEWER FUND - The Sewer Fund Budget is included in the City Operating Budget and is funded by contributions from the Water Fund. The budget contains the following major items:

- Sufficient funds to meet the obligations of annexation for Chunns Cove, Sweeten Creek Road, and Patton Avenue once the court case is settled.

- Sufficient funds to meetthe obligations of annexation for Ascension Drive, Johnston School Road, and Riceville Road.

1. We lack sufficient funds for maintenance types of capital improvements described in the 201 and 208 wastewater studies. Consequently, the majority of our funds are spent on emergency maintenance kinds of activities.

2. There are still major areas of the city that are still on septic tanks with no city sewer lines planned.

e. "In the letter I sent out with the capital budgets last year, I said 'I want to present a 5-year capital budget to Council that is well thought out, includes only requests necessary to carry out effective city operations and avoids surprises occurring for unanticipated needs' - this statement is even more important to think about this year."

This 5-year capital budget includes buildings and equipment that cost in excess of $1,000 and does not include approximately $50,000 needed for such items as wastebaskets, file cabinets, etc. You will note too that many items are routine types of needs such as updating city code, re-upholstering chairs, dilapidated housing demolition, sidewalk re-construction, street re-surfacing, etc.

The lack of definite policies of previous Councils and administration regarding capital needs have led to many of our current major problems. Street paving, sidewalk construction, bridge repair, and storm drainage are examples of major problems which must be financed.

The point is that we have no sound financing to maintain approximately $28,000,000 in city assets; to purchase and/or rehabilitate needed equipment or to finance major building construction or reconstruction. The funds we have used for these types of things have been Community Development, Bureau of Outdoor Recreation, Model Cities, Revenue Sharing, EDA, ARC, Sinking Fund, and bond referendums voted by the people.

E. REVENUE SHARING TRUST FUND - The Revenue Sharing Trust Funds available for 1983-84 are estimated to be $1,324,072, including $673,020 which is the amount of money we can expect between now and September 30, 1983. While we have a high percent assurance that Revenue Sharing will be passed by the Congress, it is still pending legislation. If the legislation passes, we will receive an additional $605,718.

F. CAPITAL IMPROVEMENT FUNDS

1. Overview - It is under this section of the budget that the concern about capital needs is addressed. The following were guidelines given to Department Heads in preparing the 5-year capital budget, a summary of which is attached.

   a. "We are all aware that we are facing a tough budget. Most capital reserves are already earmarked for use, and General Revenue Sharing is scheduled to expire on September 30, 1983. Very few capital requests for the coming year are likely to be approved."

   b. "Do not request an item unless it is absolutely essential to your operation or will increase productivity or efficiency."

   c. "Items must be cost justified."

   d. "Since the Fiscal 1982-83 budgets were prepared, we have been hit with several "surprises" - items which were not included in the budget requests. While it is not always possible to predict all needs, any surprise or unanticipated need reflects poorly on our management ability."

for a long-term capital reserve which is the equivalent of 5% of our fixed assets, an amount which is similar to the amount business and industry provide for such purposes.

b. That the Council consider scheduling a bond referendum to authorize a bond issue of from $3.5 to $7.0 million to fund specified immediate needs. The debt service of this issue would be paid from the capital reserve fund in (a) above.

c. That the Council continue to take advantage of federal and state funds to supplement our capital budget needs.

d. That the Council continue to request an additional 1% local option sales tax for the purpose of providing funds for capital needs. This alone would produce $1,875,000 annually.

e. For FY 83-84 pool the following funds for the following activities:

Funds Available

General Revenue Sharing (Through 9/30/83)	$ 1,324,072
Community Development Block Grant (9th Year)	1,520,000
Sinking Fund Reserve	422,028
Jobs Bill Funding (C/D)	538,000
Jobs Bill Funding (EDA)	709,500
General Revenue Sharing (Continuation)	605,718
Jobs Bill - Parks	50,000
Valley Street Right-of-Way Funds	67,288
Total Funding Available	$ 5,236,606

While we must continue to take advantage of federal and state programs to supplement our financing, we should devise a plan of our own to assure a continued flow of funds for the future. The idea is no different than establishing the actuarial plan for the 1939 Police Pension. For approximately 35 years, the city financed the Pension "pay-as-you-go" - this is what we are doing with our capital needs. But, for the pension, as employees get older, the cost of "pay-as-you-go" was more than the city could afford annually. Consequently, a schedule or actuarial plan was designed to set the money aside now for the future. As buildings, such as the City Building, Civic Center, and Municipal Building, get older they too will need more money than the city can afford annually. The same is true of streets, sidewalks, storm drains, sewer lines - we need money to be set aside now for the future.

2. Recommendation

I am proposing that the Council adopt a policy establishing a long-term capital reserve plan which would generate up to $27,000,000 or more in local funds over the next 15 to 20 years for major long-term capital needs. Such a plan could be established with existing legal restraints on the use of such reserves and would include:

a. For FY 1983-84 setting aside the equivalent of approximately 7¢ of the 59¢ tax rate and use this for debt service on outstanding debts. As well as, at an appropriate time, consider a tax increase of 5¢

Conclusion

We have dedicated employees throughout the ranks of city government and I am proud of the job that they are doing. And, if you examined closely where we have come from in the past 5 years, the list of improvements in service, productivity, and efficiency would astound you. For example:

- In 1982-83 the Council authorized a General Funds Budget of $20,761,676. The city staff will come in under budget by almost $700,000.

- The 1983-84 budget has no tax increase and the total General Funds Budget we are submitting for Council approval is $58,000 less than the budget approved by Council for 1982-83 even after considering the cost of the combined 1982-83 and 1983-84 pay packages.

- The Council approved spending $1,414,078 in fund balance for FY 82-83. We are projecting that we will only spend $409,593.

- Police/Fire dispatch was combined with the potential annual savings being at least $30,000 with two (2) fewer employees needed - no layoff.

- The new Motor Transport Facility was started.

- A major study of private garbage collection was undertaken - along with several other options considered and experimented with.

- A Word Processing Center was established.

- A major reorganization of city departments was completed.

Projected Needs

General Revenue Sharing (Current Budget)		
Civic Center Roof	350,000	
Other Items	974,072	
		$ 1,324,072
Community Development Block Grant Funds (9th Year)		
East End Project (Including $225,000 for land acquisition)	1,200,000	
Other Projects & Admin.	320,000	
		1,520,000
City Hall Renovations		1,419,000
C/D Jobs Bill Projects		
Nasty Branch Culvert	205,177	
Lyman Hollow Culvert	172,000	
Economic Development (S. Pack Square) and Adm.	160,823	
		538,000
Municipal Building Improvements		180,000
Street Paving		1,000,000
Valley Street Land Acquisition		126,855
Downtown Signalization		65,000
Jobs Bill - Parks Improvements		50,000
General Revenue Sharing (Capital Replacement - Continued)		605,718
Total Projected Needs		$ 6,828,645
Amount Unfunded		$ 1,592,039

(The unfunded amount need represents a portion of the items to be funded by a proposed bond issue (see 2,b above)

4. Asheville is the county seat of Buncombe County, the seventh largest city in North Carolina, known worldwide as a tourist/convention center, the largest North Carolina city west of Charlotte, a leader in the growth of Western North Carolina, and a progressive city. We should maintain that image and role.

5. In the event personnel reductions are necessary, to the extent practical, it should be done by attrition and reduction in working hours rather than through terminations.

The City of Asheville, like other segments of our society, has been adversely affected by the financial conditions and economic trends of the times. Increased cost in energy, supplies, equipment, salaries and wages and fringe benefits have occurred during a period of diminishing financial resources, while a predominantly "hold-the-line" concept in development of the city budget was in place.

For the past several years, various methods have been used to reduce costs and maintain an effective level of municipal services. The successes that the city has achieved are demonstrated by the city's ability to hold the increase in total cost of city government well below the C.P.I, even while adding additional services and the fact that the ad valorem tax burden on the typical residential taxpayer in the city has been reduced from 5.9% of per capita income in 1975 to only 3.3% of per capita income in 1981. This has occurred while the state and federal tax burden has risen dramatically. Therefore, in view of the cost reductions that have already taken place over the past few years, the city is faced with limited alternatives now for further reducing expenses. Arbitrary cuts will require varying degrees of reorganization of city activities and will effect not only direct city services, but also administrative service functions as well.

- Career development programs were completed in the Police and Fire Departments.

- A major downtown study was completed.

- Arrangements to utilize the Land-of-Sky services of an energy officer and industrial engineer were made.

- Park and recreation services were split from public works and public facility-type services for budget purposes.

- Reserves have been budgeted for the Cauble suit and annexation.

- A full-time staff attorney will be hired.

Our staff is well known regionally, statewide, and nationally through their service on boards, committees, and commissions. And, they spurred an effort to raise over $17,450 for the United Way this past year.

My Philosphy is:

1. Changes should be by evolution rather than revolution.

2. Direct services to the city residents should be provided in the most efficient and effective manner possible.

3. Since we are a labor-intensive service organization, we should expect high employee performance standards and our pay and benefits should be competitive with those of local private industry and comparably-sized cities in North Carolina where the scope of the position and organization are similar to ours - so that we can attract the best qualified employees.

The proposed budget is in keeping with the City Council philosophy adopted March 15, 1983, in the all-day City Council Work Session at the Governor's Western Residence.

a. Continue to study potential areas for annexation; however, there is no plan to annex areas for 1983-84 which have not previously been announced or are in litigation except for those properties where owners petition.

b. Continue commitment to downtown.

c. Consider the long-term and short-term effects of budget decisions.

d. Consider the role of the City of Asheville in Western North Carolina.

e. Maintain a concern about keeping up with capital needs.

f. Continue to work with the County Commissioners towards the consolidation of appropriate services.

g. Use of volunteers to the greatest extent possible to supplement city services and involve more people in the community in governmental services.

h. Recognize employees by paying competitive wages and providing good fringe benefits, training, and career development opportunities.

i. Reserve sufficient funds to provide services to proposed annexed areas under litigation.

j. That the City Manager's $10,000 contingency fund set up in the City Manager's Budget for 1982-83 be eliminated with the understanding that the City Manager may use up to $10,000 from the General Fund contingency in the event of an emergency, provided the use of such funds is reported at the next regular session of City Council.

The reasons for this are:

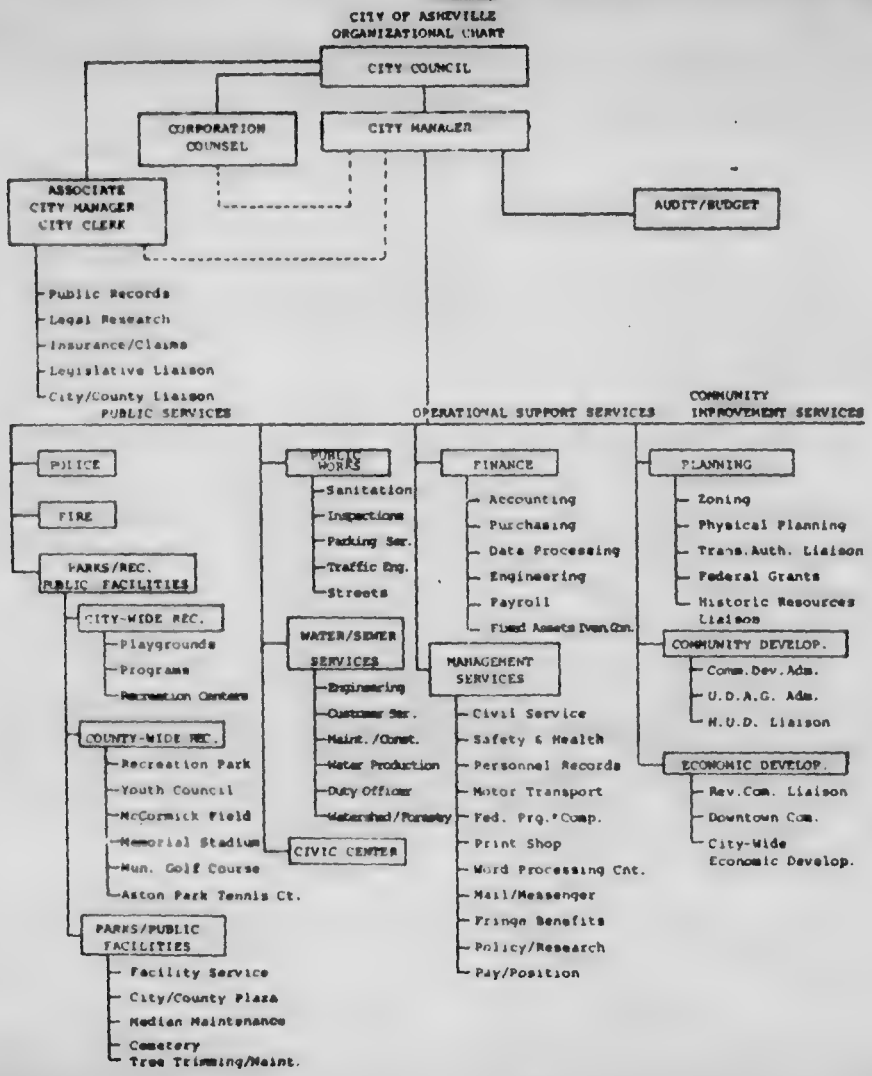
1. Our organizational approach is to maximize service to the public by decentralizing servi e delivery through the departments of Police, Fire, Water and Sewer, Public Works, Civic Center, and Parks and Recreation, and by centralizing such activities as recordkeeping, legal, policy functions, vehicle maintenance, and printing through the departments of Finance, Administration, Management Services, Planning, Community Development, and Economic Development.

2. This organizational approach has checks and balances to continuously monitor compliance with state, federal, and local laws and efficiency and effectiveness of operations. The need for compliance with these laws and efficient/effective operations and administration will not go away just because we cut the budget.

This Council has inherited the decisions made by former councils and managers, as well as the attitudes and desires of the general public. This simply means that there are numerous activities in which we are now involved which we had no say in establishing, but which there is an obligation to continue or specifically delete.

Therefore, cuts below this recommended budget need to be weighed in terms of good fiscal management, public service needs, and the effects the cut will have on operations and administration.

No budget is easy, and no budget should be final. It should be viewed as the general plan of activity for the year indicated, capable of being adjusted to the unexpected.


CITY OF ASHEVILLE
ORGANIZATIONAL CHART
CITY COUNCIL
CORPORATION COUNSEL
CITY MANAGER
ASSOCIATE CITY MANAGER CITY CLERK
AUDIT/BUDGET
Public Records
Legal Research
Insurance/Claims
Legislative Liaison
City/County Liaison
PUBLIC SERVICES
OPERATIONAL SUPPORT SERVICES
COMMUNITY IMPROVEMENT SERVICES
POLICE
FIRE
PARKS/REC. PUBLIC FACILITIES
CITY-WIDE REC.
Playgrounds
Programs
Recreation Centers
COUNTY-WIDE REC.
Recreation Park
Youth Council
McCormick Field
Memorial Stadium
Mun. Golf Course
Aston Park Tennis Ct.
PARKS/PUBLIC FACILITIES
Facility Service
City/County Plaza
Median Maintenance
Cemetery
Tree Trimming/Maint.
PUBLIC WORKS
Sanitation
Inspections
Parking Ser.
Traffic Eng.
Streets
WATER/SEWER SERVICES
Engineering
Customer Ser.
Maint./Const.
Water Production
Duty Officer
Watershed/Forestry
CIVIC CENTER
FINANCE
Accounting
Purchasing
Data Processing
Engineering
Payroll
Fixed Assets Inven.Con.
MANAGEMENT SERVICES
Civil Service
Safety & Health
Personnel Records
Motor Transport
Fed. Prg.*Comp.
Print Shop
Word Processing Cnt.
Mail/Messenger
Fringe Benefits
Policy/Research
Pay/Position
PLANNING
Zoning
Physical Planning
Trans.Auth. Liaison
Federal Grants
Historic Resources Liaison
COMMUNITY DEVELOP.
Comm.Dev.Adm.
U.D.A.G. Adm.
H.U.D. Liaison
ECONOMIC DEVELOP.
Rev.Com. Liaison
Downtown Com.
City-Wide Economic Develop.

k. To the extent practical, either in-kind or in cash, recover expenses for our provision of services to the county.

Example: Number of items in the list prepared to justify not paying the tipping fee.

l. Set money in reserve perta ning to the Cauble Suit litigation.

m. Retain a minimum of $1 million in Fund Balance unappropriated.

n. Retain a General Fund minimun contingency of $200,000.

The City Council has spent numerous hours on the budget this year by reviewing work programs and budgets presented in March, reviewing the 5-year capital needs, and dividing the Council into work groups to review individual department budgets.

Our department and division heads deserve particular recognition for their efforts and cooperation in preparing their respective elements of this budget. I firmly believe that this and greater overall efficiency in delivering municipal services are positive results of my emphasis on decentralized management accountability and responsibility. Special recognition for direct assistance in preparation and production of the budget is given to the Audit and Budget Director, the Finance Department, the Management Services Department, Data Processing Division, Accounting Division, Print Shop personnel, and to the City Council for their long hours of deliberation over this budget.

Respectfully Submitted,

K. M. Michalove
City Manager

KMM:msm

RESOLUTION NO. 83-77 -RESOLUTION SUPPORTING THE WESTERN NORTH CAROLINA SOAP BOX DERBY AND AUTHORIZING THE CLOSING OF CERTAIN STREETS IN THE CITY OF ASHEVILLE FOR SAID EVENT

5. Consideration was given to a resolution supporting the Western North Carolina Soap Box Derby and authorizing the closing of certain streets in the City of Asheville for said event.

The City Manager said since members of Council were furnished copies of the resolution it would not be read in its entirety. He said the resolution states that the WNC Soap Box Derby Association, an affiliate of the West Asheville Rotary Club and the Asheville Parks, Recreation, and Public Facilities Department are co-sponsoring a Soap Box Derby for participants in Western North Carolina on July 9, 1983 on South French Broad Avenue. It is necessary to close certain streets on June 25 (time trials) and on July 9 (race date) in order to ensure the safety of participants and spectators at this event.

Upon motion of Councilman McDevitt, seconded by Councilman Myers, Resolution No. 83-77 was unanimously adopted.

Complete text of Resolution No. 83-77 will be found in Resolution Book No. 14 at page 31.

RESOLUTION NO. 83-78 - RESOLUTION ADOPTING A POLICY ON TREES ON CITY PROPERTY AND PUBLIC RIGHT-OF-WAY WITHIN THE CITY OF ASHEVILLE

6. Consideration was given to a resolution adopting a policy on trees on city property and public right-of-way within the City of Asheville.

The City Manager said since members of Council were furnished copies of the resolution it would not be read in its entirety. The resolution states that in order to clarify various responsibilities as to the preservation, protection, care, planting, and maintenance of the trees in Asheville, the Tree Commission has recommended the adoption of a Tree Policy.

The City Manager said members of Council were also furnished copies of the proposed tree policy.

Ray Kisiah, Director of Parks, Recreation and Public Facilities, read Council's recommended changes to the policy after reviewing the policy several weeks ago.

Upon inquiry of Councilman McDevitt, Mr. Kisiah said any area of the city can be designated to be governed by the Tree Plan. He said the tree policy does not restrict itself to the central business district. He said according to the policy the policy is applicable only to those areas for which a tree plan has been adopted by the Tree Commission and approved by City Council.

Mr. Kisiah said there was no budgetary effects connected to the tree policy.

Mr. John Reid, Chairman of the Asheville Tree Commission, said a representative of the Tree Commission should attend the monthly meetings of ULOCO (Utility Locating Company) to coordinate tree plantings with utility projects.

Vice-Mayor Price moved to schedule a public hearing and first reading of the budget ordinance for June 21, 1983. This motion was seconded by Councilwoman Bratton and carried unanimously.

RESOLUTION NO. _____ - RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF ASHEVILLE TO ENTER INTO A LEASE AGREEMENT WITH THE AREA BOARD OF HEALTH FOR PROVIDING THERAPEUTIC RECREATION PROGRAMS AT SHILOH RECREATION CENTER

3. Consideration was given to a resolution authorizing the Mayor of the City of Asheville to enter into a lease agreement with the Area Board of Health for providing therapeutic recreation programs at Shiloh Recreation Center.

The City Manager said since members of Council were furnished copies of the resolution it would not be read in its entirety.

Councilman McDevitt expressed concern with Section 7 of the lease agreement relative to fire or casualty requiring that the City rebuild or restore the structure at the Lessee's request if it is damaged or destoryed by fire or by any other casualty He said he had problems with the language in that if it was not feasible to repair or restore the City should not be obligated to do so. He requested that action on the lease agreement be tabled for one (1) week until that language could be rewritten.

Corporation Counsel Moore said he had also expressed concerns with that section and had requested an explanation for it being included.

It was the consensus of Council that the resolution be tabled for one (1) week.

RESOLUTION NO. 83-76 - RESOLUTION PROPOSING TO ACCEPT CERTAIN STATE SYSTEM STREETS AS CITY SYSTEM STREETS IN PROPOSED ANNEXATION AREAS (Cub Road - Craig Circle - Bull Mountain Road)

4. Consideration was given to a resolution proposing to accept certain state system streets as city system streets in proposed annexation areas.

The City Manager said since members of Council were furnished copies of the resolution it would not be read in its entirety. The resolution stated that on June 30, 1983, three new areas will become part of the City of Asheville. Ordinances to annex land along Riceville Road, Ascension Drive and Johnston School Road were passed on August 26, 1982 by City Council. Two of the areas contain N. C. State System Streets that will become City System Streets upon annexation. The resolution is in response to a N. C. State Highway Department request that City Council state their intentions to accept the State System Streets as City System Streets on June 30, 1983. "Plans for the Extension of City Services," prepared for these two areas do reveal the City's intentions to accept the responsibilities for the portion of the State System Streets which are to be annexed.

Upon motion of Councilwoman Frank, seconded by Councilwoman Bratton, Resolution No. 83-76 was unanimously adopted.

Complete text of Resolution No. 83-76 will be found in Resolution Book No. 14 at page 30.

CERTIFICATION OF CIVIL SERVICE BOARD ELECTION

The City Manager announced that Mr. Walter Ruby, Jr. and Raymond Stepp were elected by City employees as members of the Civil Service Board by an election held on Thursday, May 26, 1983.

RESOLUTION NO. 83-79 - RESOLUTION REJECTING BIDS FOR REFUSE COLLECTION SERVICE

Corporation Counsel William C. Moore said in his opinion, since Council initiated the bid process for refuse collection service by Resolution No. 82-214, dated November 11, 1982, Council should by resolution clear the records by adopting a resolution rejecting the bids.

Councilman Myers questioned the necessity of the resolution.

Upon motion of Vice-Mayor Price, seconded by Councilwoman Bratton, Resolution No. 83-79 was adopted on a 4-3 roll call vote, after a voice vote and Councilman McDevitt calling for a roll call vote. Mayor Trantham, Vice-Mayor Price, Councilwoman Bratton, and Councilman Pless voting "aye" and Councilwoman Frank Councilman Myers and Councilman McDevitt voting "no."

Complete text of Resolution No. 83-79 will be found in Resolution Book No. 14 at page 33.

CLAIMS - NOBLE TONEY (WATER & SEWER) - JAMES FISHER (PARKS & REC.) - MRS. JAMES FISHER (PARKS & REC.) - EMILY SMITH (WATER & SEWER) - BECKY PELLARD (WATER & SEWER) - DELMA BAILEY (WATER & SEWER)

LAWSUIT - RICHARD L. MAYES (PROPERTY DAMAGE (SEWER BACKUP)

The City Manager presented claims received from Noble Toney, James Fisher, Mrs. James Fisher, Emily Smith, Becky Pellard, and Delma Bailey.

The City Manager also reported that the city was served with a summons in connection with a lawsuit involving Richard L. Mayes, property damage caused by sewer backup.

Mayor Trantham referred the claims and lawsuit to the Corporation Counsel for investigation and recommendation.

RESOLUTION NO. 83-80 - RESOLUTION AUTHORIZING APPLICATION TO THE UNITED STATES DEPARTMENT OF COMMERCE, ECONOMIC DEVELOPMENT ADMINISTRATION, FOR A GRANT UNDER THE PROVISIONS OF THE EMERGENCY JOBS ACT (PUB. L. 98-8)

Consideration was given to a resolution authorizing application to the United States Department of Commerce, Economic Development Administration, for a grant under the provisions of the Emergency Jobs Act (Pub.L. 98-8).

The City Manager read the resolution which stated that there exists a need to make certain improvements to the City Hall Building in order to conserve energy, improve safety, and reduce maintenance costs. The Economic Development Administration is authorized to provide funding of up to fifty percent (50%) of the project cost for renovation of existing public facilities as stated in the Federal Register of April 29, 1983, Volume 48, No. 84. This resolution will

Mr. Clark Brown, Director of Public Works, said Council should consider the budgetary impact of trees damaging the sidewalks. He said after reviewing the tree policy he would suggest the following changes to the policy:

1. Add to the check list on the Tree Planting Request Form under (2) "Storm drainage" in the Public Underground and Private Underground column.

2. Have Signature Sign-Off lines on the bottom of the Tree Planting Request Form for Public Works Department and the Parks, Recreation, and Public Facilities Department.

3. Incorporate into II (B) the Public Works Department.

4. Incorporate into the tree policy criteria for replacement of a tree when the tree is too big for the sidewalks where it damages overhead utilities, sidewalks, and underground utilities.

Vice-Mayor Price said types of sidewalk construction should also be considered when trees are in a particular area.

Mr. Tom Tarrant, City Engineer, said the policy gives the Tree Commission no powers or control.

Mr. Ed Dabbs, with the Public Service Company, expressed concern relative to Section VI of the policy. He said this particular section was not discussed when the utility companies met with the Tree Commission about the policy. He said this particular section could create problems with day-to-day operations with utility companies and could effect every line put in. He said this section should be brought before all utility companies before being incorporated into the policy.

The City Manager agreed that Section VI could effect the day-to-day operation of all utility companies and suggested that Council adopt the policy deleting this particular section for the present. He said the language of this section could be brought back to Council within sixty (60) days for inclusion in the policy.

Councilman McDevitt questioned Section II (E) stating that downtown tree should be defined; Section IV (C) should be changed to refer to 4A and 4B rather than 3A and 3B; the words "by the city" should be inserted in IV (E) after the word "performed"; the wording in Section V(A) should be clarified in that it reflects that you can take a tree down without approval of the Tree Commission but you cannot replace one without approval of the Tree Commission and the Section deals with Replacement and Removal.

Upon motion of Councilwoman Frank, seconded by Vice-Mayor Price, Resolution No. 83-78 was unanimously adopted subject to the policy being amended to delete Section VI and adding the recommendations of the Director of Public Works and Councilman McDevitt. The resolution was adopted also with the understanding that Section IV of the policy would be rewritten and submitted to Council for inclusion in the policy and that language would be included establishing criteria for replacement of a tree when a tree is too big for a sidewalk and causing problems. These items to be included in the policy within sixty (60) days.

Complete text of Resolution No. 83-78 will be found in Resolution Book No. 14 at page 32.

This matter was considered at our May 17, 1983 meeting. After discussion, it was felt by majority of the Water Authority, that since other City-County responsibilities were considered and are included in the Water Agreement, that it would be appropriate for each governing body (City, County, and Water Authority) each to pay one-third of the statement submitted by the law firm. A motion was made to that effect and the Authority is ready to process its share of the bill.

Please let me know how you wish to handle this matter.

Sincerely,

/s/ Floyd D. Brock

Floyd D. Brock, Chairman
Asheville-Buncombe Water Authority

FDB/MLH/dew
Attachment

cc: William DeBruhl, Director
Water and Sewer Services

Upon inquiry of several Council members, the City Manager said these legal services were concerning existing water bonds in relation to establishing the Water Authority.

Councilman Myers suggested that Council defer any action on the request until Council members have an opportunity to discuss the request.

The City Manager said the letter was presented as information.

PROCLAMATION - NATIONAL SAFE BOATING WEEK - JUNE 5 - 11, 1983

Mayor Trantham proclaimed June 5 - 11, 1983 as "National Safe Boating Week."

PRESENTATION OF LETTER AND WATER BUDGET

The City Manager presented members of Council with a letter from Floyd Brock, Chairman of the Water Authority, forwarding the Water Budget for Fiscal 1983/84 to members of Council.

DISCUSSION RELATIVE TO AUDIT ANALYSIS FROM PATTON, HUNTER AND ASSOCIATES RELATIVE TO CITY-COUNTY RECREATION CONSOLIDATION

After discussion, it was the consensus of Council to discuss the audit analysis with the Buncombe County Commissioners, at a joint City Council / Buncombe County Commissioners meeting possibly on June 7, 1983.

REPORT RELATIVE TO PUBLIC MEETING HELD ON THE GOALS AND OBJECTIVES OF THE ASHEVILLE-BUNCOMBE HUMAN RELATIONS COUNCIL

It was the consensus of Council to have a report presented at a joint City Council/Buncombe County Commissioners meeting, relative to the public meeting held on May 24, 1983 to hear goals and objectives of the Asheville-Buncombe Community Relations Council, possibly on June 7, 1983.

authorize the submission of an application to the United States Department of Commerce, Economic Development Administration, for a grant to renovate the City Hall Building which will include: roof repair, window replacement, elevators, heating and air conditioning, stairwell, ceiling and other improvements at an estimated cost of $1,419,000. The resolution also authorizes the City Engineer to negotiate a contract with Wood and Cort, P. A., Architects, for preliminary architectural services which are required for submission of the application, such services not to exceed $15,000 in cost.

Upon motion of Councilwoman Frank, seconded by Vice-Mayor Price, Resolution No. 83-80 was unanimously adopted.

Complete text of Resolution No. 83-80 will be found in Resolution Book No. 14 at page 34.

RESOLUTION NO. 83-81 - RESOLUTION AUTHORIZING CERTAIN OFFICIAL ACTION RELATIVE TO ACTIVITIES IN BILTMORE VILLAGE

Consideration was given to a resolution authorizing certain official action relative to activities in Biltmore Village.

The City Manager read the resolution which stated that the Biltmore Village is sponsoring certain merchandising events from June 1 through June 5, 1983 and have requested that the provisions of the code relative to selling on streets and sidewalks and the use of streets and sidewalks for demonstration be waived from 10:00 a. m. June 1, 1983 through 10:00 p. m. June 5, 1983 for those individuals that own and operate businesses in Biltmore Village.

Upon motion of Vice-Mayor Price, seconded by Councilwoman Frank, Resolution No. 83-81 was unanimously adopted.

Complete text of Resolution No. 83-81 will be found in Resolution Book No. 14 at page 35.

PRESENTATION OF LETTER FROM FLOYD BROCK, CHAIRMAN OF WATER AUTHORITY RELATIVE TO STATEMENT FROM BROWN, WOOD, IVEY,MITCHELL AND PETTY FOR LEGAL EXPENSES INCURRED DURING THE NEGOTIATION OF THE WATER AGREEMENT

The City Manager presented the following letter:

May 17, 1983

The Honorable Roy M. Trantham
Mayor of Asheville
Asheville, North Carolina 28801

The Honorable R. Curtis Ratcliff
Chairman, Buncombe County
Board of Commissioners
Asheville, North Carolina 28801

Dear Roy and Curt:

Attached please find a statement from the law firm of Brown, Wood, Ivey, Mtichell and Petty, originally sent to Bud Taylor, County Finance Director, for payment. This statement is for legal expenses incurred during the negotiation of the Water Agreement. Mr. Taylor then sent the statement to the Water Authority for full payment.

The City Manager was requested to contact the Buncombe County Commissioners to determine if a joint meeting of the City Council and Buncombe County Commissioners could be held on Tuesday, June 7, 1983.

ADJOURNMENT

Upon motion of Councilman Myers, seconded by Councilman Pless, the meeting adjourned at 6:30 p. m.

MAYOR

CITY CLERK

PUBLIC HEARING - REZONING PORTION OF CHURCH STREET AND RAVENSCROFT DRIVE

ORDINANCE NO. 1369 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED

3. A public hearing was held relative to rezoning a portion of Church Street and Ravenscroft Drive from CBD to R-4 Residential District.

Mayor Trantham opened the public hearing at 4:15 p. m.

The City Manager presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said the Asheville Planning and Zoning Commission at a meeting held May 4, 1983, reviewed the petition of Mr. Donny Luke and other property owners requesting that a portion of the Church Street and Ravenscroft Drive area be rezoned from the CBD District to R-4 Residential District. After review and discussion, the Commission voted to recommend to City Council that a portion of Church Street and Ravenscroft Drive be rezoned from the CBD District to R-4 Residential District, excluding Lot 136-1/4. He said all commercial lots fronting on Lexington Avenue will remain in the CBD District. He said the developer of Lot 136-1/4 recently obtained a building permit to construct an electrical shop and warehouse and if the property is zoned R-4 Residential a non-conforming use would be created.

Vice-Mayor Price spoke in support of including Lot 136-1/4 in the R-4 Residential District to protect the property in the future.

A discussion was held relative to Lot 136-1/4. Mr. Emrick and Mr. Lem Moore, Director of Inspections, told members of Council that if Lot 136-1/4 is included in the R-4 Residential District the owner would be prohibited from expanding his business in the future or changing the use of the building.

Mayor Trantham closed the public hearing at 4:23 p. m.

Mr. Emrick read the proposed ordinance rezoning the property as recommended by the Planning and Zoning Commission.

Vice-Mayor Price moved to amend the ordinance to include Lot 136-1/4 in the R-4 Residential District. This motion was seconded by Councilman McDevitt.

After discussion a voice vote was taken on Vice-Mayor Price's motion and the motion was defeated on a voice vote of 6-1.

Councilman McDevitt moved for the adoption of Ordinance No. 1369. This motion was seconded by Councilwoman Frank.

On a roll call vote of 7-0, Ordinance No. 1369 passed on first reading.

Tuesday, June 7, 1983 - 4:00 p. m.

Regular Meeting

Present: Mayor Roy M. Trantham, Presiding; Vice-Mayor Norma T. Price, Councilwoman Mary Lloyd Frank, Councilwoman Wilhelmina B. Bratton, Councilmen Gordon Myers, Joe Pless and Larry McDevitt; Corporation Counsel William C. Moore, City Manager K. M. Michalove; Deputy City Clerk Carol Hensley.

Absent: Associate City Manager/City Clerk William F. Wolcott, Jr. (vacation)

INVOCATION

The invocation was given by Councilwoman Mary Lloyd Frank.

APPROVAL OF THE MINUTES

1. Approval of the minutes of the May 31, 1983 meeting.

Upon motion of Vice-Mayor Price, seconded by Councilwoman Frank, the minutes of the May 31, 1983 meeting were unanimously approved as submitted.

PROCLAMATION - JUNE 5 - 11, 1983 - "MANAGEMENT WEEK"

Mayor Trantham proclaimed June 5 - 11, 1983 as "Management Week."

The proclamation was presented to Mr. Mike Heath.

PROCLAMATION - JUNE 12, 1983 - "RACE UNITY DAY"

Mayor Trantham proclaimed Sunday, June 12, 1983 as "Race Unity Day."

The proclamation was presented to Mr. David Quinn.

Mr. Quinn said a program is scheduled on Sunday, June 12, 1983 at the Montford Park at 1:30 p. m. in connection with "Race Unity Day" with Councilwoman Wilhelmina Bratton as the speaker.

RESOLUTION NO. 83-82 - RESOLUTION OF APPRECIATION TO PORTER KNAPP, SR.

2. Consideration was given to a resolution of appreciation to Mr. Porter Knapp, Sr.

The City Manager read the resolution stating that Mr. Porter Knapp, Sr. has been employed by the City of Asheville for the past nine years in the Customer Services Division of Water and Sewer Services Department and retired on May 31, 1983.

Upon motion of Councilman Pless, seconded by Councilwoman Frank, Resolution No. 83-82 was unanimously adopted.

Mayor Trantham presented a copy of the resolution to Mr. Porter Knapp, Sr.

Complete text of Resolution No. 83-82 will be found in Resolution Book No. 14 at page 36.

Councilwoman Frank moved for the adoption of Ordinance No. 1370. This motion was seconded by Councilman Pless.

On a roll call vote of 7-0, Ordinance No. 1370 passed on first reading.

PUBLIC HEARING - SITE PLAN OF THE PROPOSED "HAWTHORNE" TOWNHOUSES TO BE LOCATED ON OLD HAW CREEK ROAD

6. A public hearing was held relative to the site plan of the proposed "Hawthorne" townhouses to be located on Old Haw Creek Road.

Mayor Trantham opened the public hearing at 4:45 p. m.

The City Manager presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning said the Asheville Planning and Zoning Commission at a meeting held May 4, 1983, reviewed the site plan of the proposed "Hawthorne" townhouses to be located on Old Haw Creek Road. The site plan was prepared by Ashley Engineering Company for Charleston Financial Properties, Inc., Developer, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion of the plan, the Commission voted to recommend approval to City Council subject to compliance with the Erosion Control Ordinance.

Mr. Emrick said this project contains approximately 19.6 acres and the developer proposes to construct 152 townhouses in three or four phases depending upon marketability. He said at the request of the Planning and Zoning Commission the Planning Staff worked with the engineers of the project to provide an additional drive way and right-of-way for another access to and from the project. He said all city departments reviewed the project and no problems are encountered. He said the Water and Sewer Department said there was sufficient water and sewer lines for 190 units.

Councilman Pless said before adding anything to the sewer line that the developer plans to connect to a study should be done as his business is on this line and every time it rains the sanitary sewer overflows into his business.

Councilman McDevitt expressed concern about additional drainage in this area.

Mr. Emrick said the roads in the area are in need of repair.

Mrs. E L. Sauer, property owner adjacent to the proposed project, said the traffic in the area is currently heavy and this project will add to the traffic hazards. She said she does not have city sewer lines available to her and questioned Council providing sewer lines for the developer when the property owners on Cisco have to use septic tanks.

Mr. Bill Ashley, engineer for the proposed project, explained the proposed sewer line and said Mrs. Sauer could connect onto the line being run by the developer.

Mrs. Sauer said a study needs to be made of the problems at Haw Creek Road and Cisco Road and Haw Creek Road at Middlebrook Road.

PUBLIC HEARING - SITE PLAN OF THE PROPOSED ADDITION OF A WELDING/POWER BUILDING AT ASHEVILLE-BUNCOMBE TECHNICAL INSTITUTE

4. A public hearing was held relative to the site plan of the proposed addition of a Welding/Power Building at Asheville-Buncombe Technical Institute.

Mayor Trantham opened the public hearing at 4:35 p. m.

The City Manager presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said the Asheville Planning and Zoning Commission at a meeting held May 4, 1983 reviewed the site plan of the proposed addition of a Welding/Power Building at Asheville-Buncombe Technical Institute. The plan was prepared by Six Associates, Inc. and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion of the plan, the Commission voted to recommend approval to City Council subject to compliance with the Erosion Control Ordinance.

Mr. Emrick said this project would consist of a one story building with approximately 35,600 square feet and would be following the master plan designed by Asheville-Buncombe Technical Institute. He said the project conforms to all sections of the Zoning Ordinance and there are no problems with providing water and sewer to the project.

Mayor Trantham closed the public hearing at 4:40 p. m.

Vice-Mayor Price moved to approve the site plan of the proposed addition of a Welding/Power Building at Asheville-Buncombe Technical Institute. This motion was seconded by Councilman Myers and carried unanimously.

PUBLIC HEARING - AMENDING CODE OF ORDINANCES - HOUSING CODE FOR THE CITY OF ASHEVILLE

ORDINANCE NO. 1370 - AN ORDINANCE REPEALING SECTIONS 8-13 THROUGH 8-41 OF CHAPTER 8, ARTICLE II, OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE, KNOWN AS THE HOUSING CODE, AND ADOPTING A NEW HOUSING CODE FOR THE CITY OF ASHEVILLE

5. A public hearing was held relative to repealing Sections 8-13 through 8-41 of Chapter 8, Article II, of the Code of Ordinances of the City of Asheville, known as the Housing Code, and adopting a new Housing Code for the City of Asheville.

Mayor Trantham opened the public hearing at 4:41 p. m.

The City Manager presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Lem Moore, Director of Inspections, said this ordinance will incorporate amendments to the Housing Code recommended by the Code Study Committee. He said the amendments are incorporated into a new Housing Code for the City of Asheville.

Mr. Moore read the proposed ordinance.

Mayor Trantham closed the public hearing at 4:44 p. m.

RESOLUTION NO. 83-85 - RESOLUTION ACCEPTING THE FISCAL YEAR 1982 COST ALLOCATION PLAN

9. Consideration was given to a resolution accepting the Fiscal Year 1982 Cost Allocation Plan.

The City Manager read the resolution stating that on March 10, 1983 Council approved the proposal of David M. Griffith and Associates, Ltd. for the preparation of a cost allocation plan for the City based on audited FY '82 information. The plan has been submitted and reviewed by City staff and the City Council Fringe Benefits Committee. This resolution will accept the plan submitted and direct that the plan be forwarded to the U. S. Department of Housing and Urban Development. He said Council should also direct that notification be given to all departments relative to the cost allocation plan as it affects their budgets.

Upon motion of Councilman Myers, seconded by Councilman McDevitt, Resolution No. 83-85 was unanimously adopted with direction that all departments be notified of the plan in order to reflect budgetary appropriations.

Complete text of Resolution No. 83-85 will be found in Resolution Book No. 14 at page 41.

SCHEDULING OF PUBLIC HEARING - FINAL STATEMENT OF OBJECTIVES AND PROPOSED USE OF FUNDS - "JOBS BILL"

10. Councilwoman Frank moved to schedule a public hearing for the final statement of objectives and projected use of funds - "Jobs Bill" for June 21, 1983. This motion was seconded by Councilman Myers and carried unanimously.

Note: During the Fiscal Year beginning July 1, 1983 the City of Asheville anticipates receiving $538,000 from the U. S. Department of Housing and Urban Development through an additional appropriation for the Community Development Block Grant Entitlement program which has been authorized through the Jobs Bill.

COUNCILMAN McDEVITT REQUESTED TRADITION ON RETIRING CITY EMPLOYEES

Councilman McDevitt requested that City Council establish a tradition that when city employees retire from employment with the City that after the resolution of appreciation is adopted that Council members express appreciation to the employee individually.

It was the consensus of Council to establish such a tradition.

PROCLAMATION - JULY 29, 30, AND 31, 1983 - "BELE CHERE FESTIVAL"

Mayor Trantham proclaimed July 29, 30, and 31, 1983 as "Bele Chere Festival."

Councilman McDevitt requested that Mr. Ashley make a commitment to Mrs. Sauer that she would have permission to tie into the sewer line if she so desires.

The City Manager suggested that the developer also negotiate with the City on installing larger sewer lines if the need arises and that the developer execute a deed of easement for these lines to the property line. He said the developer should be responsible for maintaining the lines until the City takes over the lines.

Mayor Trantham closed the public hearing at 5:10 p. m.

Vice-Mayor Price moved to approve the site plan of the proposed "Hawthorne" townhouses to be located on Old Haw Creek Road subject to the recommendations of the Planning and Zoning Commission; that the developer provide sewer lines to the property lines allowing Mrs. Sauer to tie into the line is she so desires; and that the developer negotiate with the City on installing larger sewer lines if the need arises and providing deeds of easement for these lines to the City. This motion was seconded by Councilwoman Bratton and carried unanimously.

RESOLUTION NO. 83-83 - RESOLUTION AUTHORIZING CERTAIN OFFICIAL ACTION RELATIVE TO THE BELE CHERE FESTIVAL

7. Consideration was given to a resolution authorizing certain official action relative to the Bele Chere Festival.

The City Manager said since members of Council were furnished copies of the resolution it would not be read in its entirety.

Upon motion of Vice-Mayor Price, seconded by Councilwoman Frank, Resolution No. 83-83 was unanimously adopted.

Complete text of Resolution No. 83-83 will be found in Resolution Book No. 14 at page 37, 38, 39.

RESOLUTION NO. 83-84 - RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF ASHEVILLE TO ENTER INTO A LEASE AGREEMENT WITH THE AREA BOARD OF HEALTH FOR PROVIDING THERAPEUTIC RECREATION PROGRAMS AT SHILOH RECREATION CENTER

8. Consideration was given to a resolution authorizing the Mayor of the City of Asheville to enter into a lease agreement with the Area Board of Health for providing therapeutic recreation programs at Shiloh Recreation Center.

The City Manager said since members of Council were furnished copies of the resolution it would not be read in its entirety. He said this resolution was discussed during Council meeting on May 31, 1983 but was tabled for one (1) week at the request of Councilman McDevitt. He said changes were made in the lease agreement as requested by Councilman McDevitt.

Upon motion of Councilman McDevitt, seconded by Councilwoman Bratton, Resolution No. 83-84 was unanimously adopted.

Complete text of Resolution No. 83-84 will be found in Resolution Book No. 14 at page 40.

Upon motion of Councilman McDevitt, seconded by Vice-Mayor Price, Resolution No. 83-87 was unanimously adopted pending the awarding of the Economic Development Administration grant being approved.

Complete text of Resolution No. 83-87 will be found in Resolution Book No. 14 at page 43.

ANNOUNCEMENT OF WILLIAM F. SLAWTER - CORPORATION COUNSEL

Mayor Trantham announced that Attorney William F. Slawter will become the Corporation Counsel effective July 1, 1983.

COMMENTS BY RALPH BISHOP - ACTIONS BY COUNCIL TO BE TAKEN IN REGULAR COUNCIL SESSION

Ralph Bishop said he agreed with and commended Councilman Pless for requesting that all Council actions be taken in regular Council session rather than in Council work sessions.

ADJOURNMENT

Upon motion of Councilwoman Bratton, seconded by Councilman Myers, the meeting adjourned at 5:30 p. m.

MAYOR

CITY CLERK

PUBLIC HEARING SCHEDULED - SITE PLAN FOR EXPANSION OF ST. JOSEPH'S HOSPITAL

Vice-Mayor Price moved to schedule a public hearing relative to the site plan for the proposed expansion of St. Joseph's Hospital to include five additional floors, parking, etc. for June 28, 1983. This motion was seconded by Councilman McDevitt and carried unanimously.

CLAIMS - VIRGINIA YORK (PUBLIC WORKS) - BILTMORE DAIRY (WATER & SEWER) - MIKE JONES (PUBLIC WORKS) - NATASHA WATKINS (PARKS AND RECREATION) - DEBRA PENLAND (POLICE) CLINE ROBERTS (PARKS AND RECREATION) - MARK ADAMS (WATER & SEWER)

The City Manager presented claims received from Virginia York, Biltmore Dairy, Mike Jones, Natasha Watkins, Debra Penland, Cline Roberts and Mark Adams.

Mayor Trantham referred the claims to the Corporation Counsel for investigation and recommendation.

RESOLUTION NO. 83-86 - RESOLUTION NAMING AN EXISTING ALLEY (PARAMOUNT LANE) THAT RUNS OFF WALNUT STREET AND IS PARALLED BY NORTH MARKET STREET AND SPRUCE STREET AND INTERSECTS ANOTHER ALLEY KNOWN AS LAWYERS WALK

Consideration was given to a resolution naming an existing public alley (Paramount Lane) that runs off Walnut Street and is paralled by North Market Street and Spruce Street and intersects another alley known as Lawyers Walk.

The City Manager read the resolution stating that the City Engineering has verified that this public alley has never been formally named and the property owners and merchants have petitioned to have this alley named "Paramount Lane."

Upon motion of Councilwoman Frank, seconded by Councilman Myers, Resolution No. 83-86 was unanimously adopted.

Complete text of Resolution No. 83-86 will be found in Resolution Book No. 14 at page 42.

RESOLUTION NO. 83-87 - RESOLUTION AUTHORIZING THE MAYOR TO SIGN ON BEHALF OF THE CITY OF ASHEVILLE A CONTRACT WITH THE FIRM OF WOOD AND CORT, P. A. OF ASHEVILLE, N. C. FOR THE ARCHITECTURAL/ENGINEERING SERVICES REQUIRED IN THE PREPARATION OF A FEDERAL ECONOMIC DEVELOPMENT ADMINISTRATION GRANT APPLICATION FOR THE RESTORATION OF THE CITY HALL

Consideration was given to a resolution authorizing the Mayor to sign on behalf of the City of Asheville a contract with the firm of Wood and Cort, P. A. of Asheville, N. C. for the architectural/engineering services required in the preparation of a Federal Economic Development Administration Grant application for the restoration of the City Hall.

The City Manager read the resolution and said this was necessary for the application for an Economic Development Administration Grant for renovation of the City Building. He said the resolution will be adopted subject to the grant being carried through.

Vice-Mayor Price also stated that the Council appreciated William C. Moore and the Patla, Straus firm. She said that the firm has been very positive and feels that the back-up of the firm has made her realize its importance.

Bill Moore said that he enjoyed the last nine years with the Council and that Bill Slawter is an excellent choice and will do a super job for the City.

Councilwoman Bratton said that she was very excited to see the direction the City is going in and that is the involvement of small businesses in the whole purchasing and contracting program of the City.

Upon motion of Councilman Pless, seconded by Councilman Myers, Resolution No. 83-88 was unanimously adopted.

Complete text of Resolution No. 83-88 will be found in Resolution Book No. 14 at page 44.

ORDINANCE NO. 1369 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED

3. Consideration was given to the second reading of Ordinance No. 1369, An Ordinance Amending Ordinance No. 322, known as "An Ordinance Providing for the Zoning of the City of Asheville," as amended (rezoning a portion of Church Street and Ravenscroft Drive).

Vice-Mayor Price said that this ordinance was read on its first reading and would not be re-read unless there was a specific request to do so.

On a roll call vote of 6-0, Ordinance No. 1369 passed on its second reading.

ORDINANCE NO. 1370 - AN ORDINANCE REPEALING SECTIONS 8-13 THROUGH 8-41 OF CHAPTER 8, ARTICLE II, OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE, KNOWN AS THE HOUSING CODE, AND ADOPTING A NEW HOUSING CODE FOR THE CITY OF ASHEVILLE

4. Consideration was given to the second reading of Ordinance No. 1370, An Ordinance Repealing Sections 8-13 through 8-41 of Chapter 8, Article II, of the Code of Ordinances of the City of Asheville, known as The Housing Code, and adopting a new Housing Code for the City of Asheville.

Vice-Mayor Price said that this ordinance was read on its first reading and would not be re-read unless there was a specific request to do so.

On a roll call vote of 6-0, Ordinance No. 1370 passed on its second reading.

Councilwoman Frank moved to suspend the rules and proceed to the third and final reading of Ordinance No. 1370. This motion died for a lack of a second.

CLAIMS - JAMES ROGERS (WATER & SEWER) - R.J. REYNOLDS TOBACCO COMPANY (PUBLIC WORKS) - BARBARA ROZZELL (PARKS & RECREATION)

The City Manager presented claims received from James Rogers, R. J. Reynolds Tobacco Company and Barbara Rozzell.

Tuesday, June 14, 1983 - 4:00 p.m.

Regular Meeting

Present: Vice-Mayor Norma T. Price, Presiding; Councilwomen Mary Lloyd Frank and Wilhelmina Bratton; Councilmen Gordon Myers, Joe Pless and Larry McDevitt; Corporation Counsel William C. Moore; City Manager K. M. Michalove; Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Mayor Roy M. Trantham (Attending a U.S. Conference of Mayor's Convention in Denver, Colorado).

INVOCATION

The invocation was given by Councilman Gordon Myers.

APPROVAL OF THE MINUTES

1. Approval of the minutes of the June 7, 1983, meeting.

Upon motion of Councilman Pless, seconded by Councilwoman Frank, the minutes of the June 7, 1983, meeting were unanimously approved as submitted.

RESOLUTION NO. 83-88 - RESOLUTION APPOINTING WILLIAM F. SLAWTER CORPORATION COUNSEL OF THE CITY OF ASHEVILLE

2. Consideration was given to a resolution appointing William F. Slawter Corporation Counsel of the City of Asheville.

The Associate City Manager read the resolution.

Councilwoman Bratton said she was very excited about Mr. Slawter joining us and looks forward to working with him.

Councilwoman Frank said that she had reservations against anyone who is a one-man law firm because an occasion might arise when he will be needed in court and the City will need him also.

Councilman Myers responded to Councilwoman Frank's concerns by saying that this issue was discussed at length and Mr. Slawter understands his responsibilities and duties to the City. He said Mr. Slawter indicated that barring some unforeseen difficulties, that that would not be a problem. He said Mr. Slawter assured them that this issue would not interfer with his normal course of business for the City.

Councilman McDevitt stressed that Mr. Slawter is a fine person, a very able attorney and he has no reservations about his personal ability to serve as Corporate Counsel. He did, however, have reservations about the ability of anyone in a one- or two-man firm to provide legal services that the City needs. He said this in no way reflects on Mr. Slawter's personal qualifications.

Vice-Mayor Price said that she did not vote positively for Mr. Slawter in executive session. She said that she could not judge his performance as a lawyer but could appreciate Councilman McDevitt's thoughts. She said that initially the Council set as a criteria that the Corporate Counsel be a member of a firm. She felt that was important and for that reason she was not as supportive. She said that the majority of Council did support Mr. Slawter and she intends to vote for him at this time and looking forward to a very fruitful and a positive support from him for the City of Asheville.

Regular Meeting

Present: Mayor Roy M. Trantham, Presiding; Vice-Mayor Norma T. Price; Councilwomen Mary Lloyd Frank and Wilhelmina Bratton; Councilmen Gordon Myers, Joe Pless and Larry McDevitt; Corporation Counsel William C. Moore; City Manager K. M. Michalove, Associate City Manager/City Clerk William F. Wolcott, Jr.

INVOCATION

The invocation was given by Councilwoman Wilhelmina Bratton.

APPROVAL OF THE MINUTES

1. Approval of the minutes of the June 14, 1983, meeting.

Upon motion of Vice-Mayor Price, seconded by Councilman McDevitt, the minutes of the June 14, 1983, meeting were unanimously approved as submitted.

RESOLUTION NO. 83-89 - RESOLUTION OF APPRECIATION AND COMMENDATION TO JAMES T. O'KELLEY, SR.

2. Consideration was given to a resolution of appreciation and commendation to James T. O'Kelley, Sr.

The City Manager read the resolution stating that Mr. O'Kelley has served the citizens from December 5, 1968, to June 1, 1983.

Upon motion of Councilman McDevitt, seconded by Councilwoman Frank, Resolution No. 83-89 was unanimously adopted.

Complete text of Resolution No. 83-89 will be found in Resolution Book No. 14 at page 45.

ORDINANCE NO. 1371 - AN ORDINANCE ADOPTING THE OPERATING BUDGET AND FIXING THE TAX RATE OF THE CITY OF ASHEVILLE FOR THE FISCAL YEAR 1983-84

PUBLIC HEARING RELATIVE TO THE FISCAL 1983-84 CITY OF ASHEVILLE ANNUAL OPERATING BUDGET

3. A public hearing was held relative to the Fiscal 1983-84 City of Asheville annual operating budget.

Mayor Trantham opened the public hearing at 4:21 p.m.

The City Manager presented the notice to the public setting the time and date of the public hearing and also presented the affidavit of publication.

The City Manager said that the budget letter was reviewed with Council on May 31, 1983, and the Council has received a copy of the budget ordinance. He stated that anything the Council wanted to amend based on their budget work-session held earlier, would be done at the June 28, 1983, Council meeting in the form of an amendment.

Councilman McDevitt stated that he would vote for this ordinance today with the understanding that there will be some changes presented next week that would alter its current form.

Vice-Mayor Price referred the claims to the Corporation Counsel for investigation and recommendation.

PROCLAMATION - JUNE 14, 1983 - FLAG DAY

Vice-Mayor Price proclaimed June 14, 1983, as "Flag Day."

PETITION - WEST ASHEVILLE RESIDENTS

The following petition was presented by Asheville Firefighter David Warren. He said the petition was on behalf of the West Asheville residents and contained 2,911 signatures:

"We, the undersigned citizens of WEST ASHEVILLE, representing at least, one third of the territory and population of Asheville, do herewith petition the City of Asheville NOT TO CLOSE THE LOUISIANA FIRE STATION. Otherwise, you force us to live in fear for our lives, our property, and our status as citizens. Please acknowledge our needs AND OUR FAITHFUL PAYMENT OF TAXES!"

Vice-Mayor Price acknowledged receipt of the petition.

ADJOURNMENT

Upon motion of Councilman McDevitt, seconded by Councilman Pless, the meeting adjourned at 4:20 p.m.

MAYOR

CITY CLERK

5. A public hearing was held relative to amending the Asheville Zoning Ordinance - Section 30-6-1 - Group Developments/Planned Unit Developments.

Mayor Trantham opened the public hearing at 4:29 p.m.

The City Manager presented the notice to the public setting the time and date of the public hearing and also presented the affidavit of publication.

Mr. Verl Emrick said that the Planning and Zoning Commission voted to recommend to City Council that Section 30-6-1 of the Asheville Zoning Ordinance be amended by adding a new subparagraph 11. under Item B. Development Standards. to read as follows:

> "11. Sidewalks, Curb and Gutter. All new or rehabilitated sidewalks and/or curb and gutter sections on city system streets shall be constructed or installed according to standards provided by the City of Asheville Street Division. Such construction or installation shall be at the owner's expense. In addition, the owner shall bear all cost of replacing any joints of existing curb or sections of sidewalk damaged during construction."

Mr. Emrick stated that he would work up a sentence to put into this ordinance relative to the use of the same type of materials for the repair.

Mayor Trantham closed the public hearing at 4:30 p.m

The City Manager said that members of Council were furnished copies of this ordinance so it would not be read in its entirety.

Vice-Mayor Price moved for the adoption of Ordinance No. 1373. This motion was seconded by Councilwoman Frank.

On a roll call vote of 7-0, Ordinance No. 1373 was passed on its first reading.

PUBLIC HEARING RELATIVE TO AMENDING THE ASHEVILLE ZONING ORDINANCE - SECTION 30-11-4. PROCEDURE: GROUP DEVELOPMENTS

ORDINANCE NO. 1374 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED

6. A public hearing was held relative to amending the Asheville Zoning Ordinance - Section 30-11-4. Procedure: Group Developments.

Mayor Trantham opened the public hearing at 4:32 p.m.

The City Manager presented the notice to the public setting the time and date of the public hearing and also presented the affidavit of publication.

Mr. Verl Emrick said that the Planning and Zoning Commission voted to recommend to City Council that Section 30-11-4. of the Asheville Zoning Ordinance be amended by adding a new subparagraph "I" to read as follows:

Mayor Trantham closed the public hearing at 4:23 p.m.

The City Manager said that since members of Council were furnished copies of the ordinance, it would not be read in its entirety.

Councilwoman Frank moved for the adoption of Ordinance No. 1371. This motion was seconded by Councilwoman Bratton.

On a roll call vote of 7-0, Ordinance No. 1371 was passed on its first reading.

PUBLIC HEARING RELATIVE TO AMENDING THE ASHEVILLE ZONING ORDINANCE - SECTION 30-3-15 - DRIVEWAY ENTRANCE REQUIREMENTS

ORDINANCE NO. 1372 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED

4. A public hearing was held relative to amending the Asheville Zoning Ordinance - Section 30-3-15.

Mayor Trantham opened the public hearing at 4:25 p.m.

The City Manager presented the notice to the public setting the time and date of the public hearing and also presented the affidavit of publication.

Mr. Verl Emrick, Director of Planning, said that at the request of the staff in the Public Works Department, the Asheville Planning and Zoning Commission voted to recommend to City Council that Section 30-3-15 of the Asheville Zoning Ordinance be amended by deleting subparagraph (2) under Item C. 2. (c) and adding a new paragraph to read as follows:

> "(2) Existing Curbed Streets. The applicant will bear all costs of driveway construction, including the cost of replacing all joints of curb and sections of sidewalk damaged during construction." (Underscoring provided to denote new wording.)

Vice-Mayor Price suggested that another sentence be added relative to the use of the same type of materials for the repair. Mr. Emrick said that he would work up an appropriate sentence for inclusion on the second reading of this ordinance.

Mayor Trantham closed the public hearing at 4:28 p.m.

The City Manager said that since members of Council were furnished copies of the ordinance, it would not be read in its entirety.

Vice-Mayor Price moved for the adoption of Ordinance No. 1372. This motion was seconded by Councilman McDevitt.

On a roll call vote of 7-0, Ordinance No. 1372 was passed on its first reading.

PUBLIC HEARING RELATIVE TO AMENDING THE ASHEVILLE ZONING ORDINANCE - SECTION 30-6-1 - GROUP DEVELOPMENTS/PLANNED UNIT DEVELOPMENTS

ORDINANCE NO. 1373 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED

3. Continue infrastructure improvements and provide business incentives for economic development expansion in the South Pack Square/Eagle/ Market Streets/ Biltmore Avenue area - $150,000.

4. Administrative support for carrying out the overall program in a timely manner and in compliance with Federal guidelines - $10,823.

Councilwoman Bratton said that she was pleased to see the distribution of this money going into the private/public partnership along with other kinds of jobs. She also commended Mr. Logan Delany for the work he has done in this area.

Mayor Trantham closed the public hearing at 4:40 p.m.

The City Manager said that since members of Council were furnished with copies of this resolution, it would not be read in its entirety.

Upon motion of Councilwoman Bratton, seconded by Councilman Myers, Resolution No. 83-90 was unanimously adopted.

Complete text of Resolution No. 83-90 will be found in Resolution Book No. 14 at page 46.

ORDINANCE NO. 1369 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED

8. Consideration was given to the third and final reading of Ordinance No. 1369, an ordinance amending Ordinance No. 322, known as "An Ordinance Providing for the Zoning of the City of Asheville," as amended (rezoning a portion of Church Street and Ravenscroft Drive).

The City Manager stated that this ordinance was read on its first reading and would not be read in its entirety.

On a roll call vote of 7-0, Ordinance No. 1369 was passed on its third and final reading.

Complete text of Ordinance No. 1369 will be found in Ordinance Book No. 10 at page ~~13~~ 13cl

Mayor Trantham was excused from the meeting at 4:42 p.m.

ORDINANCE NO. 1370 - AN ORDINANCE REPEALING SECTIONS 8-13 THROUGH 8-41 OF CHAPTER 8, ARTICLE II, OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE, KNOWN AS THE HOUSING CODE, AND ADOPTING A NEW HOUSING CODE FOR THE CITY OF ASHEVILLE

9. Consideration was given to the third and final reading of Ordinance No. 1370, An Ordinance Repealing Sections 8-13 through 8-41 of Chapter 8, Article II, of the Code of Ordinances of the City of Asheville, known as The Housing Code, and adopting a new Housing Code for the City of Asheville.

The City Manager stated that this ordinance was read on its first reading and would not be read in its entirety. He stated that an amendment was required to Section 8-14. Exercise of Police Powers: Authority. due to the Article and Chapter Number being incorrect. It should read as follows:

". . . and that a public necessity exists to exercise the police powers of the City of Asheville pursuant to Article 19 of Chapter 160A of the General

"I. Commencement of Work. If a building permit is not sought and issued within one (1) year of the date of approval by City Council, such approval shall be deemed to have expired. No permit shall be issued thereafter for the proposed development until the site plan has been resubmitted to the Asheville Planning and Zoning Commission for review. The Commission may, following review of the plan, recommend that:

1. There are no significant changes in the proposal or scope of work and the project may proceed as originally approved, or

2. There are sufficient changes in the proposal and/or scope of work to justify an additional review and approval by City Council."

Mayor Trantham closed the public hearing at 4:35 p.m.

The City Manager stated that since members of Council were furnished copies of this ordinance, it would not be read in its entirety.

Vice-Mayor Price moved for the adoption of Ordinance No. 1374. This motion was seconded by Councilwoman Frank.

On a roll call vote of 7-0, Ordinance No. 1374 passed on its first reading.

PUBLIC HEARING RELATIVE TO SUBMISSION OF A FINAL STATEMENT OF COMMUNITY DEVELOPMENT OBJECTIVES AND PROJECTED USE OF FUNDS - JOBS BILL FUNDS

RESOLUTION NO. 1375 - RESOLUTION AUTHORIZING SUBMISSION OF A FINAL STATEMENT OF COMMUNITY DEVELOPMENT OBJECTIVES AND PROJECTED USE OF FUNDS - JOBS BILL FUNDS APPROPRIATED BY CONGRESS UNDER PUBLIC LAW 98-8 FOR COMMUNITY DEVELOPMENT ACTIVITIES-TITLE I OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974

7. A public hearing was held relative to submission of a final statement of Community Development objectives and projected use of funds - Jobs Bill Funds.

Mayor Trantham opened the public hearing at 4:37 p.m.

The City Manager presented the notice to the public setting the time and date of the public hearing and also presented the affidavit of publication.

The City Manager explained that during fiscal year beginning July 1, 1983, the City anticipates receiving $538,000 from the U.S. Department of Housing and Urban Development for the Community Development Block Grant Entitlement Program which has been authorized through the Jobs Bill. The following is the activities in which the City is considering:

1. Prepare vacant land for commercial development by installing 980 linear feet of 84-inch drainage culvert along Nasty Branch between Eagle and Beaumont Streets - $205,177.

2. Prepare vacant land for industrial development by installing 700 linear feet of 42-inch drainage culvert along Lyman Hollow and fill site for future development - $172,000.

The City Manager said that the Parks and Recreation Miscellaneous Budget has received more revenue and expenditures are higher than anticipated. He said that this budget is self-supporting through contributions and fees.

Councilman Myers moved for the adoption of Ordinance No. 1376. This motion was seconded by Councilwoman Frank.

On a roll call vote of 6-0, Ordinance No. 1376 was passed on its first and final reading.

Complete text of Ordinance No. 1376 will be found in Ordinance Book No. 10 at page 45.

Mayor Trantham returned to the meeting at 4:50 p.m.

ORDINANCE NO. 1377 - BUDGET ORDINANCE AMENDMENT RELATIVE TO THE FUNDING OF COOL GREEN ASHEVILLE

13. Consideration was given to a budget ordinance amendment relative to funding of Cool Green Asheville.

The City Manager said that this budget amendment is to provide City funding for Cool Green Asheville Program. This funding will be shared with County as follows:

City	$ 7,150	28.6%
County	17,850	71.4%
	25,000	100.0%

Councilman Myers moved for the adoption of Ordinance No. 1377. This motion was seconded by Councilwoman Bratton.

On a roll call vote of 7-0, Ordinance No. 1377 was passed on its first and final reading.

Complete text of Ordinance No. 1377 will be found in Ordinance Book No. 10 at page 46.

RESOLUTION NO. 83-92 - RESOLUTION APPOINTING MEMBER TO THE CIVIL SERVICE BOARD

Consideration was given to a resolution appointing member to the Civil Service Board.

The City Manager read the resolution appointing Ms. Sheila Fellerath, 70 Dogwood Grove, Asheville, North Carolina, 28805, as a member of the Civil Service Board for a term of two years.

Upon motion of Councilwoman Bratton, seconded by Councilwoman Frank, Resolution No. 83-92 passed on a vote of 4-3, with Mayor Trantham, Councilman Myers and Councilman Pless voting "no."

Councilwoman Frank said that she received a profile of the number of women that the City employed and felt strongly that a woman should be chosen as a member of the Board. She also said that Ms. Fellerath would be a positive contribution to the Board.

Complete text of Resolution No. 83-92 will be found in Resolution Book No. 14 ate page 51.

Statutes of North Carolina, . . ."

Councilwoman Frank moved to accept the amendment to the ordinance as requested by the City Manager. This motion was seconded by Councilman Pless and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1370, as amended, was passed on its third and final reading.

Complete text of Ordinance No. 1370, as amended, will be found in Ordinance Book No. 10 at page 14.

RESOLUTION NO. 83-91 - RESOLUTION AUTHORIZING THE DISPOSITION OF MUNICIPAL RECORDS AS SCHEDULED

10. Consideration was given to a resolution authorizing the disposition of municipal records as scheduled.

The City Manager stated that since members of Council were furnished copies of this resolution, it would not be read in its entirety. He said that these records have reached the end of their statutory retention period and the Council needs to approve the disposition of same.

Upon motion of Councilwoman Bratton, seconded by Councilwoman Frank, Resolution No. 83-91 was unanimously adopted.

Complete text of Resolution No. 83-91 will be found in Resolution Book No. 14 at page 49.

ORDINANCE NO. 1375 - BUDGET ORDINANCE AMENDMENT RELATIVE TO BRIDGE PROJECTS

11. Consideration was given to a budget ordinance amendment relative to bridge projects.

The City Manager said that this budget amendment is strictly setting up accounts for the following bridge projects: Chestnut Street - $789,500; Arco Road - $135,800; Gashes Creek - $521,000; Glen Falls Road - $99,000. He said the total appropriation for the project will be $1,545,300 and the local share will be funded by 2/3 rule debt in the amount of $305,000 plus interest earnings.

Councilwoman Frank moved for the adoption of Ordinance No. 1375. This motion was seconded by Councilman McDevitt.

On a roll call vote of 6-0, Ordinance No. 1375 was passed on its first and final reading.

Complete text of Ordinance No. 1375 will be found in Ordinance Book No. 10 at page ~~45~~ 44.

ORDINANCE NO. 1376 - BUDGET ORDINANCE AMENDMENT RELATIVE TO THE PARKS & RECREATION MISCELLANEOUS BUDGET

12. Consideration was given to a budget ordinance amendment relative to the Parks and Recreation Miscellaneous budget.

RALPH BISHOP

Mr. Ralph Bishop spoke about lottery sales in the City of Asheville.

ADJOURNMENT

Vice-Mayor Price moved to adjourn the meeting at 5:10 p.m. This motion was seconded by Councilwoman Frank and carried unanimously.

MAYOR

CITY CLERK

CLAIMS - JAMES CHAPMAN (POLICE) - HOWARD BEIDLER (WATER & SEWER) - FLORA GOURLAY (PUBLIC WORKS); LAWSUITS - GROVER C. MATTHEWS (WRONGFUL ACT/POLICE) - ASHEVILLE HOUSING AUTHORITY (CONDEMNATION OF ANNIE L. JACKSON PROPERTY, SOLOMON MANCE PROPERTY, EMMA MANCE PROPERTY, AND SOLOMON MANCE PROPERTY)

The City Manager presented claims received from Mr. James Chapman, Mr. Howard Beidler and Mrs. Flora Gourlay. He also presented a list of lawsuits, in which the city is either a defendent or a respondent: Grover C. Matthews (Wrongful Act/Police) and the Asheville Housing Authority (condemnation of Annie L. Jackson property, Solomon Mance property, Emma Mance property, and Solomon Mance property.

Mayor Trantham referred the claims to the Corporation Counsel for investigation and recommendation.

RESOLUTION NO. 83-93 - RESOLUTION AUTHORIZING THE MAYOR TO SIGN ON BEHALF OF THE CITY OF ASHEVILLE A CONTRACT WITH HOBSON CONSTRUCTION COMPANY, INC. FOR THE PROJECT KNOWN AS REED CREEK SEWER LINE (CONTRACT 1.0) AND WHEELER CONSTRUCTION COMPANY, INC. FOR THE PROJECT KNOWN AS MURDOCK AVENUE SEWER LINE (CONTRACT 2.0)

Consideration was given to a resolution authorizing the Mayor to sign on behalf of the City of Asheville a contract with Hobson Construction Company, Inc. for the project known as Reed Creek Sewer Line (Contract 1.0) and Wheeler Construction Company, Inc. for the project known as Murdock Avenue Sewer Line (Contract 2.0).

The City Manager read the resolution and said that Hobson Construction Company, Inc. is the apparent low bidder for Contract 1.0 and Wheeler Construction Company, Inc. is the apparent low bidder for Contract 2.0.

Upon motion of Vice-Mayor Price, seconded by Councilman McDevitt, Resolution No. 83-93 was unanimously adopted.

Complete text of Resolution No. 83-93 will be found in Resolution Book No. 14 at page 52.

PROCLAMATION - BRIDGE WEEKEND - JUNE 24-26, 1983

Mayor Trantham proclaimed June 24-26, 1983, as "Bridge Weekend."

PROCLAMATION - GIVE THEM A HAND WEEK FOR ELIADA HOME - JUNE 27-JULY 1, 1983

Mayor Trantham proclaimed June 27-July 1, 1983, as "Give Them A Hand Week for Eliada Home."

COUNCILMAN LARRY McDEVITT

Councilman McDevitt stated that he is now appearing in a matter that is before the North Carolina Court of Appeals. He said the record shows that he is Counsel for Hobson Construction Company. He said it is a workman's compensation case and he was hired by the workman's compensation insurance carrier to represent Hobson. He said he is not Hobson's general counsel, not on retainer and doesn't represent them in any other way. He said that this is in appearance in name only. He said that Hobson Construction Company is not paying his fee in that case, that the insurance company is. He said that he did not ask to be excused from voting for Resolution No. 83-93 because he does not consider it a conflict of interest in any way.

Mr. Moore thanked members of Council and city staff, especially the City Manager's staff, for all the support and assistance given to him during his years of service to the city.

Upon motion of Vice-Mayor Price, seconded by Councilwoman Frank, Resolution No. 83-94 was unanimously adopted.

Complete text of Resolution No. 83-94 will be found in Resolution Book No. 14 at page 53.

RESOLUTION NO. 83-95 - RESOLUTION OF APPRECIATION TO MRS. CELESTE LOFTIN FOR HER SERVICE AS A MEMBER OF THE CITY OF ASHEVILLE CIVIL SERVICE BOARD

3. Consideration was given to a resolution of appreciation to Mrs. Celeste Loftin for her service as a member of the City of Asheville Civil Service Board.

The City Manager read the resolution stating that Mrs. Loftin has served as a member of the Asheville Civil Service Board for a period of two years.

Upon motion of Vice-Mayor Price, seconded by Councilwoman Frank, Resolution No. 83-95 was unanimously adopted.

Complete text of Resolution No. 83-95 will be found in Resolution Book No. 14 at page 54.

RESOLUTION NO. 83-96 - RESOLUTION OF APPRECIATION TO MR. DAVID R. HILLIER FOR HIS SERVICE AS A MEMBER OF THE CITY OF ASHEVILLE CIVIL SERVICE BOARD

4. Consideration was given to a resolution of appreciation to Mr. David R. Hillier for his service as a member of the City of Asheville Civil Service Board.

The City Manager read the resolution stating that Mr. Hillier has served as a member of the Asheville Civil Service Board for a period of two years.

Upon motion of Vice-Mayor Price, seconded by Councilman Myers, Resolution No. 83-96 was unanimously adopted.

Complete text of Resolution No. 83-96 will be found in Resolution Book No. 14 at page 55.

PUBLIC HEARING - SITE PLAN FOR THE PROPOSED EXPANSION OF ST. JOSEPH'S HOSPITAL

5. A public hearing was held relative to the site plan for the proposed expansion of St. Joseph's Hospital.

Mayor Trantham opened the public hearing at 4:27 p. m.

The City Manager presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Tuesday - June 28, 1983 - 4:00 p. m.

Regular Meeting

Present: Mayor Roy M. Trantham, Presiding; Vice-Mayor Norma T. Price; Councilwomen Mary Lloyd Frank and Wilhelmina Bratton; Councilmen Gordon Myers and Joe Pless; Corporation Counsel William C. Moore; City Manager K. M. Michalove; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Councilman Larry McDevitt (due to case in court - anticipated being present for the final reading of the budget ordinance)

INVOCATION

The invocation was given by Councilman Joe Pless.

APPROVAL OF THE MINUTES

1. Approval of the minutes of the June 21, 1983 meeting.

Upon motion of Vice-Mayor Price, seconded by Councilman Pless, the minutes of the June 21, 1983 meeting were unanimously approved as submitted.

PROCLAMATION - "SOAPBOX DERBY DAY IN WESTERN NORTH CAROLINA" - SATURDAY, JULY 9, 1983

Mayor Trantham proclaimed Saturday, July 9, 1983 as "Soapbox Derby Day in Western North Carolina" and presented the proclamation to Dr. Tom Jones, President-elect of the West Asheville Rotary Club.

Vice-Mayor Price thanked the West Asheville Rotary Club for sponsoring the Soapbox Derby event in Western North Carolina.

REQUEST OF TEMPLE BAPTIST CHURCH - SEWER LINE

Dr. John O'Rachea with the Temple Baptist Church appeared before Council stating that Temple Baptist Church is located near K-Mart on Patton Avenue and Hawkins Lane. He said the church is presently using a septic tank because city sewer services are not available. He requested that the city staff investigate the possibility of running a sewer line to Hawkins Lane in order for the church to be on the city sewer system.

Mayor Trantham requested that the City Manager make an investigation into Dr. Creech's request and report to City Council what can be done.

RESOLUTION NO. 83-94 - RESOLUTION OF APPRECIATION TO WILLIAM C. MOORE

2. Consideration was given to a resolution of appreciation to William C. Moore.

The City Manager read the resolution stating that Mr. Moore has served the City of Asheville as Corporate Counsel since February 14, 1974 and has announced his resignation effective July 1, 1983.

Mayor Trantham presented Mr. Moore with a plaque in recognition of his service thanking him for his outstanding service above and beyond the normal duties of Corporate Counsel.

ORDINANCE NO. 1373 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED (amending Section 30-6-1 - Group Developments/Planned Unit Developments)

7. Consideration was given to the second reading of Ordinance No. 1373, an ordinance amending Ordinance No. 322, known as "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," as amended amending Section 30-6-1- Group Developments/ Planned Unit Developments.

Mayor Trantham said this ordinance was previously read on first reading and would not be re-read in its entirety unless there was a specific request to do so.

Verl Emrick, Director of Planning, said as requested by Council on June 21, 1983 the following amendment is submitted for Council's consideration:

That the following sentences be added at the end of Item 11:

"All reconstruction of sidewalks, curb and gutter sections shall be of the same material and of equal quality as that being replaced. Any exceptions shall be approved by the Department of Public Works."

Vice-Mayor Price moved to amend Ordinance No. 1373 as presented by the Director of Planning. This motion was seconded by Councilwoman Frank and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1373 passed on second reading.

Councilwoman Frank moved to suspend the rules and proceed to the third reading of Ordinance No. 1373. This motion was seconded by Vice-Mayor Price and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1373 passed on third and final reading.

Complete text of Ordinance No. 1373 will be found in Ordinance Book No. 10 at page ~~42~~ 42 cl

ORDINANCE NO. 1374 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED (Amending Section 30-11-4 Procedure: Group Developments)

8. Consideration was given to the second reading of Ordinance No. 1374, an ordinance amending Ordinance No. 322, known as "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," as amended, amending Section 30-11-4, Procedure: Group Developments).

Mayor Trantham said this ordinance was previously read on first reading and would not be re-read in its entirety unless there was a specific request to do so.

On a roll call vote of 6-0, Ordinance No. 1374 passed on second reading.

Vice-Mayor Price moved to suspend the rules and proceed to the third and final reading of Ordinance No. 1374. This motion was seconded by Councilwoman Frank and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1374 passed on third and final reading.

Complete text of Ordinance No. 1374 will be found in Ordinance Book No. 10 at page ~~42~~ 43.

Verl Emrick, Director of Planning, said this proposed expansion would include five additional floors of hospital space, a new parking deck, and renovations to existing facilities, involving approximately 273,000 square feet of space. He said the site plan was prepared by Henningson, Durham, and Richardson, Inc. and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion of the plan at the Planning and Zoning meeting on June 1, 1983, the Commission voted to recommend approval to City Council, subject to the following conditions: 1) Granting a variance of 7' on the setback requirements on Biltmore Avenue; and 2) Compliance with the Erosion Control Ordinance.

Mr. Walter Jones, representative for St. Joseph's Hospital and Mr. Steven Bailey, architect with Henningson, Durham and Richardson, Inc. were present at the meeting to answer questions from members of Council relative to the proposed project.

After discussion, Mayor Trantham closed the public hearing at 4:35 p. m.

Councilwoman Frank moved to approve the site plan for the proposed expansion of St. Joseph's Hospital subject to the conditions imposed by the Planning and Zoning Commission. This motion was seconded by Councilwoman Bratton and carried unanimously.

ORDINANCE NO. 1372 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED (Amending Section 30-3-15 Driveway Entrance Requirements)

6. Consideration was given to the second reading of Ordinance No. 1372, an ordinance amending Ordinance No. 322, known as "An Ordinance Providing for the Zoning of the City of Asheville," as amended, amending Section 30-3-15 - Driveway Entrance Requirements.

Mayor Trantham said this ordinance was previously read on first reading and would not be re-read in its entirety unless there was a specific request to do so.

Verl Emrick, Director of Planning, said as requested by Council on June 21, 1983 the following amendment is being submitted for Council's consideration:

That the following sentences be added at the end of Item (2):

"All reconstruction of sidewalks, curb and gutter sections shall be of the same material and of equal quality as that being replaced. Any exceptions shall be approved by the Department of Public Works."

Vice-Mayor Price moved to amend Ordinance No. 1372 as submitted by the Director of Planning. This motion was seconded by Councilwoman Frank and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1372 passed on second reading as amended.

Councilwoman Frank moved to suspend the rules and proceed to the third and final reading of Ordinance No. 1372. This motion was seconded by Vice-Mayor Price and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1372 passed on third and final reading.

Complete text of Ordinance No. 1372 will be found in Ordinance Book No. 10 at page ~~82~~ 44. CL

The City Manager said members of Council were furnished copies of the resolution and it would not be read in its entirety unless there was a specific request to do so.

Carl Ownbey, from the Planning Department, said the City of Asheville applied for and received approval for Section 8 funding in an amount of $21,000 for Mass Transit Planning as a part of UMTA Project NC-09-0066 and upon completion of UMTA Project NC-09-0066 unused balance of $4,874 remained in said project budget. He said these funds will be reallocated to this year's Section 8 funding.

Upon motion of Vice-Mayor Price, seconded by Councilwoman Frank, Resolution No. 83-99 was unanimously adopted.

Complete text of Resolution No. 83-99 will be found in Resolution Book No. 14 at page 58.

RESOLUTION NO. 83-100 - RESOLUTION AUTHORIZING THE MAYOR TO SIGN AN AGREEMENT WITH THE SKYLAND VOLUNTEER FIRE DEPARTMENT, INC., FOR FIRE PROTECTION SERVICES IN THE AIRPORT ANNEXATION AREA

12. Consideration was given to a resolution authorizing the Mayor to sign an agreement with the Skyland Volunteer Fire Department, Inc., for fire protection services in the Airport annexation area.

The City Manager said members of Council were furnished copies of the resolution and it would not be read unless there was a specific request to do so.

The Skyland Volunteer Fire Department, Inc. has agreed to provide such primary fire protection services under contract with the City of Asheville for the Airport annexation area. This resolution would authorize the Mayor to enter into an agreement with Skyland Volunteer Fire Department, Inc. to furnish the necessary men and equipment to provide primary fire protection services for the Airport annexation area.

Upon motion of Councilman Myers, seconded by Councilwoman Frank, Resolution No. 83-100 was unanimously adopted.

Complete text of Resolution No. 83-100 will be found in Resolution Book No. 14 at page 59.

RESOLUTION NO. 83-101 - RESOLUTION AUTHORIZING THE CITY MANAGER OF THE CITY OF ASHEVILLE TO ENTER INTO A CONTRACTUAL AGREEMENT WITH THE BLUE RIDGE COMMUNITY MENTAL HEALTH CENTER TO PROVIDE A WIDE RANGE OF MENTAL HEALTH AND RELATED SERVICES TO MEMBERS OF THE ADMINISTRATIVE AND CLASSIFIED SERVICE OF THE CITY OF ASHEVILLE

13. Consideration was given to a resolution authorizing the City Manager of the City of Asheville to enter into a contractual agreement with the Blue Ridge Community Mental Health Center to provide a wide range of mental health and related services to members of the administrative and classified service of the City of Asheville.

The City Manager said members of Council were furnished copies of the resolution and it would not be read unless there was a specific request to do so.

This resolution will authorize the renewal, for one (1) year, of an existing contract with the Blue Ridge Mental Health Center to provide a wide range of mental health and related services to members of the Administrative and Classified Service of the City of Asheville.

RESOLUTION NO. 83-97 - RESOLUTION AUTHORIZING THE FILING OF AN APPLICATION WITH THE DEPARTMENT OF TRANSPORTATION, UNITED STATES OF AMERICA, FOR A GRANT UNDER THE URBAN MASS TRANSPORTATION ACT OF 1964, AS AMENDED

9. Consideration was given to a resolution authorizing the filing of an application with the Department of Transportation, United States of America, for a grant under the Urban Mass Transportation Act of 1964, as amended.

The City Manager said members of Council were furnished copies of the resolution and it would not be read in its entirety unless there was a specific request to do so.

Carl Ownbey, from the Planning Department, said this grant was an annual activity. He said UMTA has obligated $13,000 of federal funding under Section 8 for Fiscal Year 1984. Also, there are funds available under Section 9A (which is the gasoline tax appropriations) for use in technical studies which the City of Asheville will request $6,126 of federal funds.

Section 8		Section 9A
$13,000	federal	$6,126
1,625	state	766
1,625	local	766

Upon motion of Vice-Mayor Price, seconded by Councilwoman Frank, Resolution No. 83-97 was unanimously adopted.

Complete text of Resolution No. 83-97 will be found in Resolution Book No. 14 at page 56.

RESOLUTION NO. 83-98 - RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT WITH THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION IN SUPPORT OF THE TECHNICAL STUDIES PROJECT

10. Consideration was given to a resolution authorizing the Mayor to enter into a contract with the North Carolina Department of Transportation in support of the Technical Studies Project.

The City Manager said members of Council were furnished copies of the resolution and it would not be read in its entirety unless there was a specific request to do so.

Carl Ownbey, from the Planning Department, said this resolution will allow the City of Asheville to continue the Technical Studies Program for the Fiscal Year 1983-84 with the State as mentioned in Resolution No. 83-97 above.

Upon motion of Vice-Mayor Price, seconded by Councilwoman Frank, Resolution No. 83-98 was unanimously adopted.

Complete text of Resolution No. 83-98 will be found in Resolution Book No. 14 at page 57.

RESOLUTION NO. 83-99 - RESOLUTION AUTHORIZING THE REPROGRAMMING OF UNSPENT SECTION 8 UMTA FUNDING

11. Consideration was given to a resolution authorizing the reprogramming of unspent Section 8 UMTA funding.

RESOLUTION NO. 83-104 - RESOLUTION AUTHORIZING THE CONTINUATION OF THE CONTRACT WITH ZUCHELLI, HUNTER AND ASSOCIATES, INC. FOR DOWNTOWN REVITALIZATION

16. Consideration was given to a resolution authorizing the continuation of the contract with Zuchelli, Hunter and Associcates, Inc. for downtown revitalization.

The City Manager said members of Council were furnished copies of the resolution and it would not be read in its entirety unless there was a specific request to do so. He explained the details of Phase III of the contract with Zuchelli, Hunter and Associates, Inc.

Upon inquiry of Ralph Bishop, Vice-Mayor Price said funds for completion of the downtown revitalization project are not addressed in this resolution, however, the funds would probably be allocated from Revenue Sharing and Community Development funds.

Councilman Myers spoke in support of the project stating that the results produced thus far by the Zuchelli, Hunter and Associates, Inc. have been encouraging. He said he felt economic conditions were good at this time and that interest rates are conducive for the project. He said the County Commissioners should be encouraged to participate in the downtown development. He said the retail portions of the plan should be given "top priority" in the city's search for developers. He said both community support and unsolicited interest by developers has been encouraging to date.

Upon motion of Councilman Myers, seconded by Councilwoman Frank, Resolution No. 83-104 was unanimously adopted.

Complete text of Resolution No. 83-104 will be found in Resolution Book No. 14 at page 63.

RESOLUTION NO. 83-105 - RESOLUTION APPOINTING MEMBERS TO THE BOARD OF DIRECTORS OF THE VICTORIA OF ASHEVILLE, INC. (Delany, Bacoate, Maitland, Shuford, Holt)

17. Consideration was given to a resolution appointing members to the Board of Directors of the Victoria of Asheville, Inc.

The City Manager said members of Council were furnished copies of the resolution and it would not be read in its entirety unless there was a specific request to do so.

The terms of Mr. Matthew Bacoate, Jr., Mr. Logan Delany, Dr. Woodard E. Farmer, Mrs. Dorothy C. Maitland, and Mr. John F. Shuford have expired on November 29, 1982. This resolution would appoint Mr. Logan Delany, Mr. Matthew Bacoate, Jr., Mrs. Dorothy C. Maitland, Mr. John Shuford and Dr. John P. Holt for a term of three (3) years, terms expiring November 29, 1985, or until their successors have been duly appointed and qualified.

Upon motion of Councilwoman Frank, seconded by Councilman Myers, Resolution No. 83-105 was unanimously adopted.

Complete text of Resolution No. 83-105 will be found in Resolution Book No. 14 at page 64.

Ralph Bishop spoke in opposition to the resolution.

Upon motion of Vice-Mayor Price, seconded by Councilwoman Frank, Resolution No. 83-101 was unanimously adopted.

Complete text of Resolution No. 83-101 will be found in Resolution Book No. 14 at page 60.

RESOLUTION NO. 83-102 - RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE CONTRACT WITH THE ASHEVILLE AREA CHAMBER OF COMMERCE REGARDING ECONOMIC DEVELOPMENT AND TRAVEL AND CONVENTION ACTIVITIES

14. Consideration was given to a resolution authorizing the Mayor and City Clerk to execute contract with the Asheville Area Chamber of Commerce regarding Economic Development and Travel and Convention Activities.

The City Manager said members of Council were furnished copies of the resolution and it would not be read in its entirety unless there was a specific request to do so.

This agreement is for the purpose of the Chamber providing economic development and travel and convention activities on behalf of the City of Asheville from July 1, 1983, through June 30, 1984. The amount of the contract is $31,000.

Upon motion of Councilwoman Bratton, seconded by Councilman Myers, Resolution No. 83-102 was unanimously adopted.

Complete text of Resolution No. 83-102 will be found in Resolution Book No. 14 at page 61.

RESOLUTION NO. 83-103 - RESOLUTION AUTHORIZING CONDEMNATION OF PROPERTY IN THE KILLIAN ROAD BRIDGE REPLACEMENT PROJECT

15. Consideration was given to a resolution authorizing condemnation of property in the Killian Road Bridge Replacement Project.

The City Manager said members of Council were furnished copies of the resolution and it would not be read in its entirety unless there was a specific request to do so.

The City has been working with property owners owning property along the Killian Road Bridge Project since January, 1983. They are unwilling to dedicate or sell the portion of their property needed as temporary and perpetual right-of-way for the replacement of the Killian Road Bridge. Therefore, the City is requesting that certain parcels be condemned in order that the City can replace the Killian Road Bridge. The following parcels will be condemned:

PARCEL	OWNER	ADDRESS
Ward 9, Sheet 42, Lot 79	Ford	Killian Road
Ward 9, Sheet 42, Lot 112	Ford	Killian Road
Ward 9, Sheet 42, Lot 93	Masters	Killian Road

Upon motion of Councilwoman Frank, seconded by Councilman Myers, Resolution No. 83-103 was unanimously adopted.

Complete text of Resolution No. 83-103 will be found in Resolution Book No. 14 at page 62.

A. Resolution No. 83-106 - Resolution of intent to close a portion of John Street and a portion of Ralph Street and calling a public hearing on the question for August 2, 1983.

HIGHLIGHTS: A petition has been filed by the Housing Authority of the City of Asheville to close a portion of John Street and a portion of Ralph Street. The closing of a portion of said streets is not contrary to the public interest, but to the contrary, is in the best interest of the public and community. A public hearing is required to close said portion of said streets and the public hearing is requested for August 2, 1983.

Resolution Book No. 14 - page 65-66

B. Resolution No. 83-107 - Resolution of intent to close portions of Old Carroll Avenue, portion of Edge Hill Avenue, New Street, Sorrells Street, portion of Weaver Street, portion of un-named alley off Weaver Street, portion of un-named alley off Curve Street, portions of Old Beaumont Street, portion of Dundee Street, portion of Ridge Street, portions of Curve Street, portion of Miller Street, portion of Beaumont Street, portion of Gaither Street, portion of Old Pine Street and portions of un-named alley off Hazzard Street and calling a public hearing on the question for August 2, 1983.

HIGHLIGHTS: A petition has been filed by the Housing Authority of the City of Asheville to close portions of streets and un-named alleys as mentioned in resolution title. The closing of said streets and un-named alleys is not contrary to the public interest, but to the contrary, is in the best interest of the public and community. A public hearing is required to close said streets and un-named alleys and the public hearing is requested for August 2, 1983.

Resolution Book No. 14 - page 67 - 72

C. Scheduling public hearing relative to the rezoning of the Manor Inn for July 19, 1983.

HIGHLIGHTS: John A. Powell, Attorney for Del Rio, Inc. wishes to appeal the decision of the Planning and Zoning Commission regarding the rezoning petition of The Manor Inn, Ward 2, Sheet 15, Lots 98 and 100.

D. Resolution No. 83-108 - Resolution to block Church Street on July 16, 1983.

HIGHLIGHTS: The Asheville-Buncombe County Christian Ministry is sponsoring "A Sharing Affair" on Saturday, July 16, 1983, from 9:00 a. m. - 3:00 p. m. on the grounds of Trinity Episcopal, Central Methodist and First Presbyterian Churches which will bring over 35 churches together in a cooperative venture in order to benefit the disadvantaged in our community. For safety and convenience reasons they are requesting that the portion of Church Street which borders the Central Methodist Church properties through the Trinity Episcopal Church properties (with the exception of Aston Street) be closed from 6:00 a.m. - 5:00 p.m. on Saturday, July 16, 1983.
Resolution Book 14 - page 73

ORDINANCE NO. 1378 - BUDGET ORDINANCE AMENDMENT RELATIVE TO THE COMMUNITY DEVELOPMENT ADMINISTRATION BUDGET

18. Consideration was given to a budget ordinance amendment relative to the Community Development Administration budget.

The City Manager said due to cut-back of Community Development Administrative budget for 1982-83, $14,000 will be needed to cover operating costs for the remainder of the year. (Audit and audit reports, additional advertising were major expenses not known about at time of preparing budget.)

Councilwoman Frank moved for the adoption of Ordinance No. 1378. This motion was seconded by Councilman Myers.

On a roll call vote of 6-0, Ordinance No. 1378 passed on first and final reading.

Complete text of Ordinance No. 1378 will be found in Ordinance Book No. 10 at page 47.

SALE OF DISPOSAL PARCEL - EAST RIVERSIDE RENEWAL PROJECT - PARCEL 182

19. Consideration was given to a motion approving the sale of a disposal parcel in the East Riverside Renewal Project.

The City Manager said the Housing Authority has tentatively accepted the following bid for a disposal parcel in the East Riverside Renewal Project:

Parcel	Reuse	Price	Bid	Redeveloper
182	Commercial	35,000	35,000	Drs. Ariail, Baily, Boyd & Atwater

Randy Barnette with the Housing Authority of the City of Asheville, said this parcel is located on the corner of Choctaw and South French Broad. He said the redevelopers propose to construct a one story medical office building containing 7,000 square feet.

Councilman Myers moved to approve the sale of Disposal Parcel 182 as recommended by the Housing Authority. This motion was seconded by Councilwoman Frank and carried unanimously.

APPROVAL OF THE CONSENT AGENDA

20. The following items are of routine nature and have been previously reviewed by the members of the City Council. Therefore, by unanimous vote to approve these items, the City Council may, by the authority granted to the City Council in Ordinance No. 1008, adopt all of the items with one motion without the full reading and/or separate motion adopting each individual item. Upon the request of a citizen, a member of the City Council, and/or a member of the city staff, any single item scheduled for approval on the consent agenda may be considered separately.

COUNCIL RECESS

Councilman Pless moved to recess the Council meeting for fifteen (15) minutes allowing Councilman McDevitt time to arrive. This motion was seconded by Councilwoman Frank and carried unanimously.

Council reconvened at 5:33 p. m.

ORDINANCE NO. 1371 - AN ORDINANCE ADOPTING THE OPERATING BUDGET AND FIXING THE TAX RATE OF THE CITY OF ASHEVILLE FOR THE FISCAL YEAR 1983-84 (AS AMENDED)

21. Consideration was given to the second and third reading of Ordinance No. 1371, An ordinance adopting the operating budget and fixing the tax rate of the City of Asheville for the Fiscal Year 1983-84.

Vice-Mayor Price announced that, during Council recess, she received a telephone call from Councilman McDevitt stating that he would be unable to attend the Council meeting this afternoon due to being held up in a court case. She said he asked her to report that he was sorry he could not vote on the budget ordinance but he did support the present budget ordinance.

Mayor Trantham said the ordinance was previously read on first reading and would not be re-read in its entirety unless there was a specific request to do so.

The City Manager noted that the Buncombe County Rescue Squad's budget for 1983-84 has been increased from $15,000 to $20,000 since this organization primarily serves the City of Asheville. He said he had discussed Council's request with the Buncombe County Rescue Squad to change their name to the Asheville-Buncombe County Rescue Squad or the Asheville Rescue Squad. He said they indicated that that would be costly to replace letterheads and emblems, etc.

Vice-Mayor Price requested that the Buncombe County Rescue Squad phase in a name change to reflect the Asheville Rescue Sqaud.

A discussion was held relative to a request of the Mayor's Handicapped Committee to fund their organization by $3,000. The City Manager noted that the $3,000 is not presently in the proposed budget. He said the City in the past has contributed to the committee with postage, etc. After discussion, Council decided to continue contributing to the committee as in the past.

Councilwoman Frank suggested that the committee write a letter to the state legislators requesting state funding for the committee. She also said the City Council could include this request in Council's legislative package to the General Assembly delegates.

The City Manager said the Asheville-Buncombe Community Relations Council's budget is the same as last year. He said the City's share is $61,298.62, which is one-half of the operating budget for the Council. After discussion Council decided to leave the appropriation for the Community Relations Council at $43,515 and to review the budget at a later date for any additional needs.

E. Resolution No. 83-109 - Resolution authorizing the closing of a portion of Boston Way in the City of Asheville for a Biltmore Village Fourth of July Festival.

HIGHLIGHTS: The Biltmore Village Inne wishes to sponsor an Old Fashioned Fourth of July Festival in the vicinity of Biltmore Village Inne. It will be necessary to close the portion of Boston Way between All Souls Crescent and Swan Street for the festivities which will take place from 10:00 a. m. to 10:00 p. m. on the Fourth of July.

Resolution Book No. 14 at page 74

Upon motion of Councilwoman Frank, seconded by Councilman Pless, the consent agenda was unanimously approved.

ORDINANCE NO. 1379 - BUDGET ORDINANCE AMENDMENT TO PROVIDE FUNDING FOR REHABILITATION FOR THE YMI CULTURAL CENTER BUILDING

Consideration was given to a budget ordinance amendment to provide funding for rehabilitation for the YMI Cultural Center Building.

The City Manager read the budget ordinance amendment to provide funding in the amount of $50,000 for continuing rehabilitation for the YMI Cultural Center building.

Councilwoman Bratton spoke in support of the budget ordinance amendment stating this project is a part of the South Pack Square Improvement Project and in addition to any proposed downtown developments.

Councilwoman Bratton moved for the adoption of Ordinance No. 1379. This motion was seconded by Councilwoman Frank.

On a roll call vote of 6-0, Ordinance No. 1379 passed on first and final reading.

Complete text of Ordinance No. 1379 will be found in Ordinance Book No. 10 at page ~~82~~ 48.

CLAIMS - RANDY O'DONNELL (WATER & SEWER) - OAKLEY BAPTIST CHURCH (WATER & SEWER) - CHARLOTTE TELL (WATER & SEWER) - GRAHAM FOX (PUBLIC WORKS)

The City Manager presented claims received from Randy O'Donnell, Oakley Baptist Church, Charlotte Tell, and Graham Fox.

Mayor Trantham referred the claims to the Corporation Counsel for investigation and recommendation.

COUNCIL MEETING FOR JULY 5, 1983 - CANCELLED

Councilman Myers moved to cancel the City Council meeting scheduled for July 5, 1983. This motion was seconded by Vice-Mayor Price and carried unanimously.

After discussion, Councilman Myers moved to approve the Water Budget as presented by the Water Authority with the understanding that any additional funds received by Water Authority can not go into the general operating budget or capital improvements without prior approval of the City Council and that City of Asheville will be given top priority for capital needs for sewer lines and further that the budget be amended to refect the city's cost allocation charges. This motion was seconded by Councilwoman Bratton and carried unanimously.

Vice-Mayor Price requested that a letter be forwarded to the Water Authority outlining the understandings with the approval of the Water Budget.

Councilman Myers commenting on the funds allocated for timber operations said he supported the funding for the timber operations and he felt that this was a small price to pay to maintain the forestry operations at the Water Shed.

Mr. Wurst then presented the following budget ordinance amendment:

That the 1983/84 Annual Operating Budget Ordinance be amended before final adoption as follows:

	Increase (Decrease)
Sewer Maintenance Fund	
Revenues - (Contribution from Other Funds)	$32,264
Appropriation - (Administrative Charges)	$32,264

PURPOSE: To reflect sewer maintenance portion of administrative charges for cost allocation.

Vice-Mayor Price moved to amend Ordinance No. 1371 as presented by Mr. Wurst. This motion was seconded by Councilwoman Frank and carried unanimously.

Vice-Mayor Price again noted that Councilman McDevitt supported the budget ordinance even though he can not vote on the ordinance.

On a roll call vote of 6-0, Ordinance No. 1371, as amended, passed on second reading.

Vice-Mayor Price moved to suspend the rules and proceed to the third and final reading of Ordinance No. 1371. This motion was seconded by Councilman Myers and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1371, as amended, passed on third and final reading.

Complete text of Ordinance No. 1371 will be found in Ordinance Book No. 10 at page ~~38~~ 38, 39, 40.

ADJOURNMENT

Upon motion of Councilman Pless, seconded by Councilwoman Bratton, the meeting adjourned at 6:30 p. m.

MAYOR

CITY CLERK

Mr. Bob Wurst, Director of Audit and Budget, presented the following proposed budget amendment:

That the 1983/84 Annual Operating Budget Ordinance be amended before final adoption as follows:

		Increase (Decrease)
General Fund		
Revenue:	Charges to Other Funds (Cost Allocation)	$153,886
	Fund Balance Appropriated	$182,537
		$336,423
Appropriation:	General Debt Service/Capital Reserve	$336,423

PURPOSE: To increase the City's funding from general operations of General Debt Service/Capital Reserve to the equivalent of $.10 of the Fiscal 1983/84 tax rate.

Vice-Mayor Price moved to amend Ordinance No. 1371 as presented by Mr. Wurst. This motion was seconded by Councilwoman Frank and carried unanimously.

Mr. Wurst then presented the following proposed budget amendment:

That the 1983/84 Annual Operating Budget Ordinance be amended before final adoption as follows:

		Increase (Decrease)
General Fund		
Revenues:	Fund Balance Appropriated	$40,000
Appropriation:	Police - (Retirement Expense)	$40,000

PURPOSE: To provide funds for a supplement to the retired members of the Asheville Policemen's Pension and Disability Fund.

Councilman Pless moved to amend Ordinance No. 1371 as presented by Mr. Wurst. This motion was seconded by Councilwoman Frank and carried unanimously.

Consideration was then given to the approval of the Water Budget as presented by the Water Authority.

The City Manager said under the terms of the Water Agreement the City Council shall in open session take action on the Water Budget.

Tuesday - July 12, 1983 - 4:00 p. m.

Regular Meeting

Present: Mayor Roy M. Trantham, Presiding; Vice-Mayor Norma T. Price; Councilwomen Mary Lloyd Frank and Wilhelmina Bratton, Councilmen Gordon Myers, Larry McDevitt, and Joe Pless; Corporation Counsel William C. Moore; City Manager K. M. Michalove, and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: None

INVOCATION

The invocation was given by Councilman Larry McDevitt.

OATH OF OFFICE - WILLIAM F. SLAWTER, CORPORATION COUNSEL

Mr. William F. Wolcott, Jr., City Clerk administered the oath of office to William F. Slawter as Corporation Counsel for the City of Asheville.

APPROVAL OF THE MINUTES

1. Approval of the minutes of the June 28, 1983 meeting.

Upon motion of Vice-Mayor Price, seconded by Councilwoman Frank, the minutes of the June 28, 1983 meeting were unanimously approved as submitted.

RECOGNITION OF CITY EMPLOYEE - BECKI PLEMMONS

The City Manager recognized Becki Plemmons from the Accounting Division for her excellent performance in administering first aid. He read the following letter outlining the details of the performance:

June 30, 1983

MEMORANDUM TO: Ken Michalove
City Manager

FROM: Betsi Dickson, R.N.
Employee Infirmary

SUBJECT: Becki Plemmons, Account Clerk II

Saturday, June 25, 1983, the Green Valley Cloggers were performing at A-B Tech in the Birch Building. They were asked to do this for a reunion of naval personnel who served on the U.S.S. Bataan together in World War II (see the article in the Asheville Times, June 28, 1983).

They performed one dance, then called for audience participation. During the beginning of the dance Mr. G. M. (Budd) Riggins of Glen Burnie, Maryland, collapsed.

Becki Plemmons, a member of the Green Valley Cloggers, had completed the First Aid Course taught April 5, 1983 thru May 5, 1983. Immediate first aid care was begun. Irma Rudisill, another clogger, gave verbal commands to the crowd.

Becki began artificial respiration and a member of the audience began chest compressions. They administered cardio-pulmonary resuscitation for approximately twenty minutes before the Emergency Medical Service arrived. Becki checked the carotid pulse at intervals to be sure that the CPR was working efficiently.

When the EMS arrived, they were able to take over without an interruption of CPR. They continued to resuscitate Mr. Riggins for another twenty to thirty minutes before transporting him to the emergency room at Memorial Mission Hospital. Later that evening the group contacted the hospital and found that Mr. Riggins had died.

I am very proud of Becki. She performed excellently. She and I discussed her feelings at the time of the incident. She stated, "I didn't think about what to do or become frightened. I simply did it." I explained to Becki that only one out of every five victims who have a heart attack survive. She can credit herself for giving this man a good chance to live.

Please let me know if you need any further information. Thank you for your interest. I am pleased to see our employees dedicated to the value of human life. "

The City Manager also commended Betsi Dickson, R.N. for the excellent job she is doing in teaching first aid to the city employees.

ORDINANCE NO. 1380 - BUDGET ORDINANCE AMENDMENT FOR REFURBISHMENT OF LADDER TRUCK NO. 2

2. Consideration was given to a budget ordinance amendment reappropriating funds for the refurbishment of Ladder Truck No. 2.

The City Manager said members of Council were furnished copies of the ordinance and it would not be read in its entirety unless there was a specific request to do so. This budget amendment in the amount of $99,826 is to appropriate funds for the refurbishment of Ladder Truck No. 2.

Vice-Mayor Price moved for the adoption of Ordinance No. 1380. This motion was seconded by Councilwoman Frank.

On a roll call vote of 7-0, Ordinance No. 1380 passed on first and final reading.

Complete text of Ordinance No. 1380 will be found in Ordinance Book No. 10 at page ~~52~~ 49.

BIDS - REFURBISHMENT OF ASHEVILLE FIRE DEPARTMENT LADDER TRUCK NO. 2

3. Consideration was given to bids received for refurbishment of Asheville Fire Department Ladder Truck No. 2.

The City Manager presented the bids stating that two bids were received. Recommendation of acceptance of low bidder, American LaFrance, Division of Figgie International, Inc. in the amount of $99,826.00. Funding available in FY 82-83 from Revenue Sharing.

Councilwoman Frank moved to approve the recommendation to award the bid for the refurbishment of Asheville Fire Department Ladder Truck No. 2 to American La France, Division of Figgie International, Inc. in the amount of $99,826.00. This motion was seconded by Councilman Myers and carried unanimously.

RESOLUTION NO. 83-110 - RESOLUTION PROCLAIMING JULY 18-25, 1983 AS POLICE CHAPLAINCY WEEK

4. Consideration was given to a resolution proclaiming July 18-25, 1983 as Police Chaplaincy Week.

The City Manager noted that members of Council were furnished copies of the resolution and it would not be read in its entirety unless there was a specific request to do so.

Upon motion of Councilwoman Frank, seconded by Councilman Myers, Resolution No. 83-110 was unanimously adopted.

Complete text of Resolution No. 83-110 will be found in Resolution Book No. 14 at page 75.

APPROVAL OF THE CONSENT AGENDA

A. Resolution No. 83-111 - Resolution authorizing City Manager to sign contract with Attorney Landon Roberts for legal services in connection with lawsuit filed against City of Asheville by Grover C. Matthews.

HIGHLIGHTS: The City of Asheville, its city manager, its police department, its police chief, and two other members of its police force are defendants in a civil action filed in federal court by Grover C. Matthews. The defense of this lawsuit is not covered by any of the city's insurance policies, past or present. It is therefore necessary for the city to arrange for the defense of this lawsuit. Landon Roberts has agreed to provide the needed legal services.

Resolution Book No. 14 at page 76

B. Resolution No. 83-112 -Resolution authorizing the City Engineering Division and Corporate Counsel to enter into negotiations on behalf of the City of Asheville with Sutton-Kennerly and Associates for engineering services on the project known as the Municipal Building Structural Repairs.

HIGHLIGHTS: This resolution will authorize the City Engineering Division and Corporate Counsel to enter into negotiations on behalf of the City for engineering services for the project known as the Municipal Building Structural Repairs.

Resolution Book No. 14 at page 77.

Upon motion of Councilwoman Frank, seconded by Councilman Myers, the consent agenda was unanimously approved.

CLAIMS - BESSIE JOHNSON (PARKS AND RECREATION) - JOHN MILLER (WATER & SEWER) LOUISE HUDGINS (WATER & SEWER) - LOCKIE WORLEY (WATER AND SEWER)

The City Manager presented claims received from Bessie Johnson, John Miller, Louise Hudgins, and Lockie Worley.

Mayor Trantham referred the claims to the Corporation Counsel for investigation and recommendation.

RESOLUTION NO. 83-113 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A RIGHT-OF-WAY ENCROACHMENT AGREEMENT WITH THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION FOR THE CONSTRUCTION OF A TWELVE INCH SEWER LINE AND RELATED APPURTENANCES LOCATED BETWEEN BROADWAY AND MERRIMON AVENUE

Consideration was given to a resolution authorizing the Mayor to execute a right-of-way encroachment agreement with the North Carolina Department of Transportation for the construction of a twelve inch sewer line and related appurtenances located between Broadway and Merrimon Avenue.

The City Manager read the resolution which stated that the City of Asheville desires to encroach on the right-of-way of US 19-23, Merrimon Avenue, with the construction of a twelve inch sewer line and related appurtenances. The North Carolina Department of Transportation is willing to permit the encroachment within the limits of its right-of-way.

Upon motion of Councilman McDevitt, seconded by Vice-Mayor Price, Resolution No. 83-113 was unanimously adopted.

Complete text of Resolution No. 83-113 will be found in Resolution Book No. 14 at page 78.

RESOLUTION NO. 83-114 - RESOLUTION AUTHORIZING THE MAYOR TO SIGN ON BEHALF OF THE CITY OF ASHEVILLE A CONTRACT WITH TAYLOR AND MURPHY CONSTRUCTION COMPANY FOR THE PROJECT KNOWN AS THE F.O.P. PROPERTY GRADING PROJECT

Consideration was given to a resolution authorizing the Mayor to sign on behalf of the City of Asheville a contract with Taylor and Murphy Construction Company for the project known as the F.O.P. Property Grading Project.

The City Manager said bids were received on this project on June 30, 1983. The results were as follows: Dillingham Construction Company - $21,609.00; Ruckman Brothers, Inc. - $27,800.00 - Taylor and Murphy Construction Co. - $3,000.00. Since all bids were higher than the budget for this project, the City Engineer negotiated with the low bidder (Taylor and Murphy Construction Company) to bring this project in within the budget. This negotiation process, with the low bidder, is allowed under the North Carolina General Statutes. With a slight modification to the plans with the approval of the F.O.P. a price of $0.00 has been agreed to by Taylor and Murphy Construction Company for this project. The reason for this price, is the fact that they are in need of the spoil dirt in connection with another project that they have contracted for in the area of this project.

Upon motion of Vice-Mayor Price, seconded by Councilwoman Frank, Resolution No. 83-114 was unanimously adopted.

Complete text of Resolution No. 83-114 will be found in Resolution Book No. 14 at page 79.

PROCLAMATION - JULY 9-16, 1983 - "WEIGHT WATCHERS INTERNATIONAL WEEK"

Mayor Trantham proclaimed July 9-16, 1983 as "Weight Watchers International Week."

PROCLAMATION - JULY 16, 1983 - "ATOMIC VETERANS DAY"

Mayor Trantham proclaimed July 16, 1983 as "Atomic Veterans Day."

COMMENTS BY PETER WINSLOW - RE: PROPOSED DEVELOPMENT OF "SUGARTREE" PROJECT IN KENILWORTH AREA

Mr. Peter Winslow, 288 Kenilworth Road, spoke to members of Council relative to the proposed "Sugartree" project which never developed in the Kenilworth area. He also referred to an article in the Sunday, July 3, 1983, newspaper relative to the project. He said this project was very costly to everyone involved. He said the City of Asheville City Council has the obligation to qualify developers for projects such as this. He said this developer hurt many innocent people in Asheville. He said the developer also hurt many people on the east coast by proposing such projects. He volunteered his time to assist the City Council in setting up standards for developers so something like this will not happen again. He said he was also volunteering his time to the state legislators to set up standards so this will not happen across the state. He asked Council's support in setting up a committee to work on the standards for developers.

Vice-Mayor Price said the City Council Planning Committee discussed this request and will continue to review Mr. Winslow's request. She said the Planning Committee also plans to involve the Corporation Counsel in the review and a recommendation will be made to Council. She asked Mr. Winslow if he had any specific recommendations in the mean time to let his recommendations be known to the City Manager.

Members of Council thanked Mr. Winslow for his time and effort on the "Sugartree" project and offering his time to assist Council.

RALPH BISHOP - COMMENTS RELATIVE TO MAYOR

Ralph Bishop made comments to the Mayor relative to his prior grocery business and about Mr. Bishop's prior lottery sales in the City of Asheville.

ADJOURNMENT

Upon motion of Councilwoman Bratton, seconded by Vice-Mayor Price, the meeting adjourned at 4:40 p. m.

MAYOR

CITY CLERK

John R. Smith, Chief Building Inspector for the City of Asheville was elected President-Elect of the North Carolina Building Inspectors' Association at their twenty-eighth Annual Meeting held in Asheville June 19-22, 1983. Mr. Smith has been an active member of the Association for several years and served as a Director and Vice-President before being elected President-Elect.

Sincerely,

/s/ T. O. Mullins, Jr.

T. O. Mullins, Jr.
Secretary-Treasurer

The City Manager and members of Council commended Mr. Smith for being elected President-Elect of the North Carolina Building Inspectors' Association.

PUBLIC HEARING - REZONING PROPERTY AT 265 CHARLOTTE STREET

ORDINANCE NO. - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED (265 Charlotte Street) (Del-Rio, Inc. - Manor Inn)

3. A public hearing was held relative to rezoning property at 265 Charlotte Street, property owned by Del Rio, Inc. and known as the Manor.

Mayor Trantham opened the public hearing at 4:30 p. m.

The City Manager presented the notice to the public setting the time and date for the public hearing.

Verl Emrick, Director of Planning, said the Asheville Planning and Zoning Commission at a meeting held June 1, 1983 considered the request of Attorney John Powell for Del Rio, Inc. that Ward 2, Sheet 15, Lots 98 and 100 be rezoned from R-2 and R-3, respectively, to OI, Office-Institutional District. After review and discussion, the Commission voted unanimously to recommend to City Council that this petition be denied and that the Commission affirm City Council's action of zoning the property to R-2 and R-3 by Ordinance No. 1196. Attorney John Powell appealed the decision of the Planning and Zoning Commission to City Council.

Mr. Emrick said the Manor is located on Lot 98 and the large parking area in the rear is located on Lot 100.

Mr. Emrick said the Planning and Zoning Commission recommended that the petitioners pursue the proceedings under the Architectural Overlay Zoning passed by Council recently. He said it was his understanding that the petitioners, at this time, do not wish to pursue the Architectural Overlay Zoning.

Upon inquiry of Vice-Mayor Price, Mr. Emrick said the Manor Inn has been designated on the National Register of Historic Places but has not formally been designated as Historic property by City Council. He said this action would have to be taken before pursuing the Architectural Overlay Zoning.

Tuesday - July 19, 1983 - 4:00 p. m.

Regular Meeting

Present: Mayor Roy M. Trantham, Presiding; Vice-Mayor Norma T. Price; Councilwomen Mary Lloyd Frank and Wilhemina Bratton, Councilmen Gordon Myers, Larry McDevitt and Joe Pless; Corporation Counsel William F. Slawter; City Manager K. M. Michalove, and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: None

INVOCATION

The invocation was given by Vice-Mayor Norma T. Price.

APPROVAL OF THE MINUTES

1. Approval of the minutes of the July 12, 1983 meeting.

Upon motion of Councilman McDevitt, seconded by Vice-Mayor Price, the minutes of the July 12, 1983 meeting were unanimously approved as submitted.

RESOLUTION NO. 83-115 - RESOLUTION COMMENDING THE AMERICAN FIELD SERVICE ON THEIR PARTICIPATION IN THE PILOT PROGRAM OF THE FIRST ADULT EXCHANGE AND RECOGNIZING THE FOREIGN EXCHANGE ADULTS FROM SOUTHEASTERN FRANCE, LYON AND THE SURROUNDING AREA THAT ARE PARTICIPATING IN THE PROGRAM

2. Consideration was given to a resolution commending the American Field Service on their participation in the Pilot Program of the First Adult Exchange and recognizing the foreign exchange adults from Southeastern France, Lyon and the surrounding area that are are participating in the program.

The City Manager read the resolution.

Mayor Trantham presented, with the assistance of an interpreter, each participant a letter of welcome. He also presented a key to the City of Asheville to be given to the Mayor of Lyon.

Upon motion of Vice-Mayor Price, seconded by Councilwoman Frank, Resolution No. 83-115 was unanimously adopted.

Complete text of Resolution No. 83-115 will be found in Resolution Book No. 14 at page 101

CITY MANAGER RECOGNIZED CITY EMPLOYEE JOHN R. SMITH

The City Manager read the following letter received by Mayor Trantham:

June 28, 1983

Honorable Roy M. Trantham
Mayor of Asheville
P. O. Box 7148
Asheville, N. C. 28807

Dear Mayor Trantham:

A roll call was then taken on the adoption of the ordinance, which motion was defeated on a roll call vote of 5-2, with Councilman Pless voting "here", Councilman Myers, Councilman McDevitt, Vice-Mayor Price, Mayor Trantham, and Councilwoman Frank voting "no" and Councilwoman Bratton voting "yes."

Mr. Mack Day then made a request of Council to put a new P. A. system in the Council Chambers. He said there is an echo in the room and it is difficult to hear everything that is said in the Chambers.

ORDINANCE NO. 1381 - ORDINANCE ESTABLISHING THE NINTH YEAR COMMUNITY DEVELOPMENT BLOCK GRANT ENTITLEMENT AS A CAPITAL PROJECT FOR THE CITY OF ASHEVILLE

4. Consideration was given to an ordinance establishing the ninth year Community Development Block Grant Entitlement as a Capital Project for the City of Asheville.

The City Manager said members of Council were furnished copies of the ordinance and the ordinance would not be read in its entirety unless there was a specific request to do so.

The City of Asheville has been notified by the HUD Area Office in a communication to Mayor Trantham dated July 6, 1983 that the entitlement of $1,520,000 had been approved. This ordinance will establish a capital project for said funds.

Vice-Mayor Price moved for the adoption of Ordinance No. 1381. This motion was seconded by Councilman McDevitt.

On a roll call vote of 7-0, Ordinance No. 1381 passed on first and final reading.

Complete text of Ordinance No. 1381 will be found in Ordinance Book No. 10 at page 50.

RESOLUTION NO. 83-116 - JOINT RESOLUTION APPROVING WATER POLICIES OF THE ASHEVILLE/BUNCOMBE WATER AUTHORITY

5. Consideration was given to a joint resolution approving water policies of the Asheville/Buncombe Water Authority.

The City Manager said members of Council were furnished copies of the resolution and the water policies and the resolution would not be read in its entirety unless there was a specific request to do so.

The Asheville-Buncombe Water Authority adopted Water Policies on May 17, 1983. This resolution will approve the water policies and will supersede and replace any and all existing rules, regulations, and policies of either the City or the County that relate in any way to the Water System or the management and development of such system, except such rules, regulations, and policies that have been incorporated in an ordinance of either the City or County now in effect.

Councilman McDevitt said he personally needed more time to review the water policies before taking action on the resolution but if the majority of the members of Council were ready to vote on the resolution he would not object.

Mr. Emrick reviewed the location of the area petitioned for rezoning.

Upon inquiry of Councilwoman Bratton, Corporation Counsel Slawter said in his opinion it would not be a conflict of interest for her to vote on the rezoning issue simply because she is a member of the Manor Inn.

Attorney John Powell, representing Del Rio, Inc., owner of the property, spoke in support of the rezoning from R-2 and R-3 to OI,Office Institutional District. He reviewed the background of the rezoning request for members of Council, dating back to 1975. He said OI, Office Institutional zoning will make the property viable, offering flexibility to the operation and to guarantee its saleability. He requested that Council consider what is the proper zoning for this property in this neighborhood.

Mr. Mack Day, President of the Grove Park-Sunset Citizens Association, spoke in opposition to the rezoning. Approximatley 50 property owners were in attendance expressing opposition to the rezoning. Mr. Day requested that Council take no action on the rezoning request and let the property remain zoned R-2 and R-3 Residential District. He said the owners of the property knew the Manor was zoned R-2 and R-3 when it was purchased in 1975 and that they should take advantage of the "Architectural Overlay" zoning that allows some commercial development with the approval of City Council.

Several property owners and residents in the area spoke in opposition to the rezoning including: James J. Tyson, Jr., 21 Edwin Place
Charlene Schandler, Cherokee Road
Barbara Rice

After a lengthy discussion, Mayor Trantham closed the public hearing at 5:47 p. m.

Verl Emrick read the ordinance rezoning the property as petitioned.

Councilman Pless moved for the adoption of the ordinance and to continue the vote on the ordinance for one week giving him time for further consideration of the issues. This motion was seconded by Councilman Myers.

Councilwoman Bratton concurred with Councilmen Pless and Myers that she needed more time to absorb the information presented to members of Council at today's meeting.

Vice-Mayor Price said she felt it would be a waste of time to postpone action on the rezoning request if the majority of Council members are prepared to vote today.

Mr. Mack Day said in all fairness to the community Council should settle the rezoning issue since this request has been going on for over seven (7) years.

Mayor Trantham said from a poll of the Council the majority of Council members are ready to vote on the rezoning request at today's meeting.

Councilman Pless then moved to table the ordinance for one week. This motion was seconded by Councilman Myers, which motion was defeated on a roll call vote of 4-3, with Mayor Trantham, Vice-Mayor Price, Councilman McDevitt, and Councilwoman Frank voting "no" and Councilman Pless, Councilman Myers, and Councilwoman Bratton voting "yes."

C. Scheduling public hearing relative to the site plan of the proposed Holiday Inn to be located on Airport Road at the Asheville Airport for July 26, 1983.

HIGHLIGHTS: The Asheville Planning and Zoning Commission at its meeting held July 13, 1983 reviewed the site plan of the proposed Holiday Inn to be located on Airport Road at the Asheville Airport. After review and discussion, the Commission voted to recommend approval of the site plan.

D. Scheduling public hearing relative to the site plan of a proposed Maintenance-Custodial Building to be built as part of the Asheville-Buncombe Technical Institute Master Plan for August 2, 1983.

HIGHLIGHTS: The Asheville Planning and Zoning Commission at its meeting held July 13, 1983 reviewed the site plan of a proposed Maintenance-Custodial Building to be built as part of the Asheville-Buncombe Technical Institute Master Plan. After review and discussion, the Commission voted to recommend approval of the site plan.

E. Scheduling public hearing relative to rezoning property located on Twentieth Street for August 2, 1983.

HIGHLIGHTS: The Asheville Planning and Zoning Commission at its meeting held July 13, 1983 reviewed the request of Mr. John Caldwell that Ward 6, Sheet 22, Lot 77, be rezoned from CS Commercial Service District to R-3 Residential District. After review and discussion, the Commission voted to recommend that the property be rezoned as requested.

F. Scheduling public hearing relative to rezoning property located on Lyman Street for August 2, 1983.

HIGHLIGHTS: The Asheville Planning and Zoning Commission at its meeting held July 13, 1983 reviewed the request of the Asheville Housing Authority that Ward 4, Sheet 5, Portion of Lot 130 be rezoned from Office Institutional to LI Light Industrial District. After review and discussion, the Commission voted to recommend that the property be rezoned as requested.

Upon motion of Councilwoman Frank, seconded by Vice-Mayor Price, the consent agenda was unanimously approved.

Upon motion of Vice-Mayor Price, seconded by Councilwoman Bratton, Resolution No. 83-116 was unanimously adopted.

Complete text of Resolution No. 83-116 will be found in Resolution Book No. 14 at page 102.

APPROVAL OF THE CONSENT AGENDA

6. The City Manager said the following items are of a routine nature and they have been previously reviewed by the members of the City Council. Therefore, by unanimous vote to approve these items, the City Council may, by the authority granted to the City Council in Ordinance No. 1008, adopt all of the items with one motion without the full reading and/or separate motion adopting each individual item. Upon the request of a citizen, a member of the City Council, and/or a member of the city staff, any single item scheduled for approval on the consent agenda may be considered separately.

A. Resolution No. 83-117 - Resolution authorizing the Mayor to sign Supplemental Agreement No. 1 relative to lease agreement between the Federal Aviation Administration and the City of Asheville, Lease No. DOTFA74SO-8296.

HIGHLIGHTS: This agreement will extend a present lease for approximately 1152 square feet of space comprising the entire building known as the FAA Sector Field Office on Asheville Municipal Airport to the Federal Aviation Administration through September 30, 1983.

Resolution Book No. 14 at page 103

B. Resolution No. 83-118 - Resolution authorizing the Director of Parks, Recreation, and Public Facilities Department to enter into an agreement with the Buncombe County Council on Aging for transportation services for the elderly.

HIGHLIGHTS: The City is currently engaged in providing transportation services to elderly residents to William C. Reid Memorial Recreation Center and to the Senior Opportunity Center for purposes of a hot meal and recreation programs daily. The Buncombe County Council on Aging has provided direct assistance through the Older Americans Act to provide assistance with transportation programs for the elderly within Buncombe County to various meal sites during the past year. This will authorize a renewal of an agreement with the Buncombe County Council on Aging for provision of transportation services for the elderly on a reimbursement/mileage basis for the period of July 1, 1983 through June 30, 1984.

Resolution Book No. 14 at page 104

CLAIMS - GEORGE GIBSON(PUBLIC WORKS)

LAWSUITS - CLAYTON W. LEWIS AND JAMES WHITWORTH (FIRE DEPARTMENT)

The City Manager presented a claim received from George Gibson.

The City Manager said the city was served with a summons in connection with a lawsuit relative to a suit filed by Clayton W. Lewis and James Whitworth for denial of promotion in the Fire Department.

PROCLAMATION - EPILEPSY AWARENESS DAY - JULY 20, 1983

Mayor Trantham proclaimed July 20, 1983 as Epilepsy Awareness Day.

RESOLUTION NO. 83-120 - RESOLUTION APPOINTING MEMBER TO THE CIVIL SERVICE BOARD (Wade H. Thomas)

Consideration was given to a resolution appointing Mr. Wade H. Thomas as a member of the Civil Service Board.

The City Manager read the resolution.

Upon motion of Vice-Mayor Price, seconded by Councilman McDevitt, Resolution No. 83-120 was unanimously adopted.

Complete text of Resolution No. 83-120 will be found in Resolution Book No. 14 at page 106

RESOLUTION NO. 83-121 - RESOLUTION APPOINTING CHAIRMAN TO THE CIVIL SERVICE BOARD (Thomas C. Posey)

Consideration was given to a resolution appointing Mr. Thomas C. Posey as Chairman to the Civil Service Board.

The City Manager read the resolution.

Upon motion of Vice-Mayor Price, seconded by Councilwoman Frank, Resolution No. 83-121 passed on a voice vote of 4-3, with Mayor Trantham, Vice-Mayor Price, Councilwoman Frank, and Councilman McDevitt voting "aye" and Councilman Myers, Councilman Pless and Councilwoman Bratton voting "no."

Complete text of Resolution No. 83-121 will be found in Resolution Book No. 14 at page 107

DISCUSSION RELATIVE TO REPAIR OF SIDEWALKS ON WALL STREET

Upon inquiry of Councilman McDevitt and Councilman Myers, the City Manager said he would have the City staff look into the sidewalk repairs neeeded on Wall Street.

DISCUSSION RELATIVE TO SIDEWALKS ON LOUISIANA AVENUE

Upon inquiry of Councilwoman Frank, the Associate City Manager said the state has no plans of installing sidewalks on Louisiana Avenue. The City Manager said it would cost approximately $75,000 to install sidewalks on Louisiana Avenue.

MOTIONS - RELATIVE TO APPROVAL OF WATER BUDGET

Councilwoman Bratton, based on a discussion during pre-council, moved to approve the Water Budget as presented by the Water Authority. This motion was seconded by Councilman McDevitt and carried unanimously.

Councilman McDevitt moved to submit an invoice to the Chairman of the Asheville-Buncombe Water Authority for costs pursuant to the cost allocation plan for 1982-83 and 1983-84. This motion was seconded by Vice-Mayor Price and carried unanimously.

Councilman McDevitt also moved that the Mayor be directed to write a letter to the Chairman of the Asheville-Buncombe Water Authority acknowledging their informal expression of support for making increased payments to the City of Asheville for the sewer system depending on the status of grant applications. This motion was seconded by Vice-Mayor Price and carried unanimously.

APPROVAL OF SIGN PERMIT - PURSUANT TO ORDINANCE NO. 1358 - ADDITIONAL SIGNAGE FOR THE PICCADILLY CAFETERIA AT THE ASHEVILLE MALL

Mr. Verl Emrick, Director of Planning, said the Asheville Planning and Zoning Commission at a meeting held July 13, 1983 reviewed the request of Mr. R. L. Coleman, Jr. that an additional permanent sign advertising the Piccadilly Cafeteria be permitted at the Asheville Mall. The Commission determined that the sign was in compliance with Section 30-9-3 of the Asheville Zoning Ordinance and recommends approval to City Council.

Councilman Myers moved to approve the additional permanent sign advertising the Piccadilly Cafeteria at the Asheville Mall. This motion was seconded by Councilwoman Bratton and carried unanimously.

RESOLUTION NO. 83-119 - RESOLUTION ACCEPTING GREENLEAF CIRCLE EXTENSION AS A CITY SYSTEM STREET

Consideration was given to a resolution accepting Greenleaf Circle Extension as a City System Street.

The City Manager read the resolution stating that Greenleaf Circle Extension has been constructed to City of Asheville Street Standards and this resolution will accept that portion of Greenleaf Circle Extension as a City System Street.

Upon motion of Vice-Mayor Price, seconded by Councilman McDevitt, Resolution No. 83-119 was unanimously adopted.

Complete text of Resolution No. 83-119 will be found in Resolution Book No. 14 at page 105

Tuesday - July 26, 1983 - 4:00 p. m.

Regular Meeting

Present: Mayor Roy M. Trantham, Presiding; Vice-Mayor Norma T. Price; Councilwoman Mary Lloyd Frank and Wilhelmina Bratton; Councilman Joe Pless; Corporation Counsel William F. Slawter; City Manager K. M. Michalove, and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Councilman Larry McDevitt (vacation)
Councilman Gordon Myers (vacation)

INVOCATION

The invocation was given by Mayor Roy M. Trantham.

APPROVAL OF THE MINUTES

1. Approval of the minutes of the July 19, 1983 meeting.

Upon motion of Vice-Mayor Price, seconded by Councilman Pless, the minutes of the July 19, 1983 meeting were unanimously approved as submitted.

RESOLUTION NO. 83-122 - RESOLUTION OF APPRECIATION TO MR. OSBORNE M. HART FOR HIS SERVICE AS DIRECTOR OF THE CITY OF ASHEVILLE CIVIL SERVICE BOARD

2. Consideration was given to a resolution of appreciation to Mr. Osborne M. Hart for his service as Director of the City of Asheville Civil Service Board.

The City Manager read the resolution stating that Mr. Hart has served as Director of the Civil Service Board for a period of five years.

Upon motion of Councilwoman Frank, seconded by Vice-Mayor Price, Resolution No. 83-122 was unanimously adopted.

Complete text of Resolution No. 83-122 will be found in Resolution Book No. 14 at page 108.

CITY MANAGER RECOGNIZED CITY EMPLOYEES AND FIRM OF PATTON HUNTER AND ASSOCIATES - AWARD OF FINANCIAL REPORTING ACHIEVEMENT FROM MUNICIPAL FINANCE OFFICERS ASSOCIATION

The City Manager recognized Mr. Larry Fisher, Director of Finance, Mrs. Charlotte Tell, City Accountant, Mr. Bob Wurst, Director of Budget and Audit, and Mr. Lester Bullock, with Patton Hunter Associates for assisting the City in receiving, for the fourth year, an award from the Municipal Finance Officers Association entitled "Award of Financial Reporting Achievement."

PUBLIC HEARING - SITE PLAN OF PROPOSED HOLIDAY INN - AIRPORT ROAD

3. A public hearing was held relative to the site plan of the proposed Holiday Inn to be located on Airport Road.

Mayor Trantham opened the public hearing at 4:10 p. m.

The City Manager presented the notice to the public setting the time and date for the public hearing.

JOHN WALSH - COMMENTS RELATIVE TO CIVIL DISTURBANCE ON IVEY STREET

Mr. John Walsh spoke to members of Council relative to a civil disturbance which occurred on Ivey Street on Sunday, July 17, 1983 involving elderly neighbors.

ADJOURNMENT

Upon motion of Vice-Mayor Price, seconded by Councilwoman Frank, the meeting adjourned at 6:40 p. m.

MAYOR

CITY CLERK

Councilwoman Frank moved for the adoption of Ordinance No. 1382. This motion was seconded by Vice-Mayor Price.

On a roll call vote of 5-0, Ordinance No. 1382 passed on first reading.

Vice-Mayor Price moved to suspend the rules and proceed to the second reading of Ordinance No. 1382. This motion was seconded by Councilwoman Frank and carried unanimously.

On a roll call vote of 5-0, Ordinance No. 1382 passed on second reading.

Vice-Mayor Price moved to suspend the rules and proceed to the third and final reading of Ordinance No. 1382. This motion was seconded by Councilwoman Frank and carried unanimously.

On a roll call vote of 5-0, Ordinance No. 1382 passed on third and final reading.

Complete text of Ordinance No. 1382 will be found in Ordinance Book No. 10 at page ~~56~~ 52.

ORDINANCE NO. 1383 - BUDGET ORDINANCE AMENDMENT FOR THE REALLOCATION FROM HUD FOR THE 1982-83 ENTITLEMENT YEAR

5. Consideration was given to a budget ordinance amendment for the reallocation from HUD for the 1982-83 Entitlement Year.

The City Manager said members of Council were furnished copies of the ordinance and it would not be read in its entirety unless there was a specific request to do so.

The City of Asheville has received an additional $1,000 from HUD for the 1982-83 Entitlement Year. This will allocate said funds.

Councilwoman Frank moved for the adoption of Ordinance No. 1383. This motion was seconded by Vice-Mayor Price.

On a roll call vote of 5-0, Ordinance No. 1383 passed on first and final reading.

Complete text of Ordinance No. 1383 will be found in Ordinance Book No. 10 at page ~~57~~ 53.

ORDINANCE NO. 1384 - BUDGET ORDINANCE AMENDMENT TO SUPPLEMENT THE CHAMBER OF COMMERCE FOR ECONOMIC DEVELOPMENT

6. Consideration was given to a budget ordinance amendment to supplement the Chamber of Commerce for Economic Development.

The City Manager said members of Council were furnished copies of the ordinance and it would not be read in its entirety unless there was a specific request to do so.

Verl Emrick, Director of Planning, said the Asheville Planning and Zoning Commission at a meeting held July 13, 1983, reviewed the site plan of the proposed Holiday Inn to be located on Airport Road. The site plan was prepared by Wagoner Construction Company, Salisbury, N. C. for Airport Associates, Inc. Developers, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion of the plan, the Commission voted to recommend approval to City Council, subject to compliance with the City's Erosion Control Ordinance.

Mr. Emrick presented a rendering of the project, stating that it consists of a two story building with 150 units, costing approximately $3.5 million. He said water and sewer will be available and the complex will be serviced by the Skyland Fire District.

After a brief discussion, Mayor Trantham closed the public hearing at 4:15 p. m.

Vice-Mayor Price moved to approve the site plan of the proposed Holiday Inn to be located on Airport Road. This motion was seconded by Councilman Pless and carried unanimously.

RESOLUTION NO. 83-123 - RESOLUTION AUTHORIZING THE MAYOR TO SIGN ON BEHALF OF THE CITY OF ASHEVILLE A CONTRACT WITH PERRY M. ALEXANDER CONSTRUCTION COMPANY FOR THE PROJECT KNOWN AS ASHEVILLE REGIONAL AIRPORT COLLECTION SEWERS

Consideration was given to a resolution authorizing the Mayor to sign on behalf of the City of Asheville a contract with Perry M. Alexander Construction Company for the project known as Asheville Regional Airport Collection Sewers.

The City Manager read the resolution.

Upon motion of Vice-Mayor Price, seconded by Councilwoman Frank, Resolution No. 83-123 was unanimously adopted.

Complete text of Resolution No. 83-123 will be found in Resolution Book No. 14 at page 109.

ORDINANCE NO. 1382 - AN ORDINANCE ESTABLISHING THE CITY OF ASHEVILLE DEBT SERVICE/ CAPITAL RESERVE FUND

4. Consideration was given to an ordinance establishing the City of Asheville Debt Service/Capital Reserve Fund.

The City Manager said members of Council were furnished copies of the ordinance and it would not be read in its entirety unless there was a specific request to do so.

The City of Asheville has a significant investment in its capital assets such as buildings, streets, sidewalks, bridges, drainage systems, etc. In the past, there has been no long-range plan to maintain, renovate, or replace said facilities, which has resulted in many city facilities being in a state of deterioration. This ordinance will establish a Capital Reserve/Debt Service Fund, the purpose of which is to receive an annual contribution from the General Fund, which shall be equivalent to the yield of a tax rate of $.12 per $100 assessed valuation.

Upon motion of Councilwoman Frank, seconded by Vice-Mayor Price, Resolution No. 83-124 was unanimously adopted.

Complete text of Resolution No. 83-124 will be found in Resolution Book No. 14 at page 110

RESOLUTION NO. 83-125 - RESOLUTION REQUESTING THE LAND OF SKY REGIONAL COUNCIL TO PROVIDE ASSISTANCE TO THE CITY OF ASHEVILLE PUBLIC WORKS DEPARTMENT, SANITATION DIVISION AND AUTHORIZING THE MAYOR TO EXECUTE NECESSARY AGREEMENT

9. Consideration was given to a resolution requesting the Land of Sky Regional Council to provide assistance to the City of Asheville Public Works Department, Sanitation Division and authorizing the Mayor to execute necessary agreements.

The City Manager said members of Council were furnished copies of the resolution and it would not be read in its entirety unless there was a specific request to do so.

The City Council has determined that there is a need for assistance to 1) Study crew size and number of crews required for providing sanitation service; 2) Investigate alternative refuse collection equipment available for providing sanitation service; 3) Study work load balancing of sanitation service collection crews to insure equitable work distribution; 4) Study vehicle routing and develop a systematic routing plan to reduce distances and back tracking on sanitation vehicle routes for the Public Works Department, Sanitation Division. The Land of Sky Regional Council, through its Local Government Productivity Improvement Program is able to perform the services above. There will be no charge for this assistance due to the fact that the program is in the "introductory" phase. If the program were in the fee-paid phase the charge for assistance would be approximately $9,000 based upon an hourly charge of $25.00. This resolution will authorize the execution of the necessary agreement with the Land of Sky Regional Council to carry out the project.

Upon motion of Councilwoman Frank, seconded by Vice-Mayor Price, Resolution No. 83-125 was unanimously adopted.

Complete text of Resolution No. 83-125 will be found in Resolution Book No. 14 at page 111

RESOLUTION NO. 83-126 - RESOLUTION ESTABLISHING CITY POLICY FOR PLACING NEW SIDEWALKS, CURBS AND DRIVE ENTRANCES AND MAINTAINING EXISTING SIDEWALKS, CURBS AND DRIVE ENTRANCES DURING WORK PERFORMED BY DEVELOPERS OR PROPERTY OWNERS

10. Consideration was given to a resolution establishing city policy for placing new sidewalks, curbs and drive entrances and maintaining existing sidewalks, curbs and drive entrances during work performed by developers or property owners.

The City Manager said members of Council were furnished copies of the resolution and it would not be read in its entirety unless there was a specific request to do so.

This budget amendment in the amount of $25,000 for Fiscal 1983/84 is a supplement to Chamber of Commerce for Economic Development.

Councilwoman Bratton moved for the adoption of Ordinance No. 1384. This motion was seconded by Councilwoman Frank.

On a roll call vote of 5-0, Ordinance No. 1384 passed on first and final reading.

Complete text of Ordinance No. 1384 will be found in Ordinance Book No. 10 at page ~~58~~ 54.

SALE OF DISPOSAL PARCELS 64, 79, AND 127 IN THE EAST END/VALLEY STREET COMMUNITY IMPROVEMENT PROJECT AND THE EAST RIVERSIDE RENEWAL PROJECT

7. Consideration was given to a motion relative to the sale of disposal parcels in the East End/Valley Street Community Improvement Project and the East Riverside Renewal Project.

The City Manager said the Housing Authority has tentatively accepted the following bids for disposal parcels in the East End/Valley Street Community Improvement Project and the East Riverside Renewal Project:

Parcel	Reuse	Price	Bid	Redeveloper
64	Residential	3,575	4,212.01	Mr. & Mrs. William Young
79	Residential	1,800	1,800	Ms. Daisy L. Carrington
127	Residential	1,800	1,800	Mr. & Mrs. Howard Lee

Parcels 64 and 79 are located on New Pine Street. Parcel 127 is located on South French Broad. Single family residential structures are proposed under the Dollar-A-Lot Program.

Councilman Pless moved to approve the sale of Disposal Parcels 64, 79, and 127 in the East End/Valley Street Community Improvement Project and the East Riverside Renewal Project as tentatively accepted by the Housing Authority. This motion was seconded by Vice-Mayor Price and carried unanimously.

RESOLUTION NO. 83-124 - RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT WITH BRIAN CENTER OF NURSING CARE-ASHEVILLE FOR FIRE PROTECTION

8. Consideration was given to a resolution authorizing the Mayor to enter into an agreement with Brian Center of Nursing Care - Asheville for Fire Protection.

The City Manager said members of Council were furnished copies of the resolution and it would not be read in its entirety unless there was a specific request to do so.

The Brian Center of Nursing Care - Asheville is not located within the corporate limits of the City of Asheville. They have requested the City to enter into a contractual agreement for the City to furnish personnel and equipment to answer calls for fire protection from the Brian Center of Nursing Care -Asheville. The City Council has previously established a standard fire contract rate to govern such contracts for fire protection. The City staff has negotiated with the Center staff and has arrived at an agreement which appears equitable to all parties considering the special nature of the risks involved at the Center facilities. This resolution will authorize the execution of the agreement.

Upon motion of Councilman Pless, seconded by Councilwoman Frank, Resolution No. 83-128 was unanimously adopted.

Complete text of Resolution No. 83-128 will be found in Resolution Book No. 14 at page 114

CLAIMS - JANICE BRACKETT (WATER & SEWER) - RICHARD CLARK (PUBLIC WORKS)

The City Manager presented claims received from Janice Brackett and Richard Clark.

Mayor Trantham referred the claims to the Corporation Counsel for investigation and recommendation.

PUBLIC HEARING SCHEDULED - APPEALS TO BOARD OF ADJUSTMENTS

Councilman Pless moved to schedule a public hearing for August 9, 1983 dealing with procedures that would permit the Board of Adjustment to examine certain appeal cases that involve the Inspections Division. This motion was seconded by Councilwoman Frank and carried unanimously.

RALPH BISHOP - REQUEST FOR CITY RECORDS

Ralph Bishop made a verbal request for police pension records.

COMMENTS RELATIVE TO REZONING ISSUE OF MANOR INN ON CHARLOTTE STREET

A property owner from Sunset Parkway, responding to action taken by Council on July 19, 1983 relative to rezoning of property on Charlotte Street known as Manor Inn, said he was not opposed to the owner of the Manor changing his business as long as the City has some control over what type of business is conducted in the area. He suggested that the owner of the Manor Inn go through the Historical Overlay District procedure.

COMMENTS BY CORPORATION COUNSEL TO RALPH BISHOP

Corporation Counsel William Slawter told Mr. Bishop any public records that are in the City Building would be made available to him or anyone else but he did not feel the request should be made to Council every week.

SCHEDULING PUBLIC HEARING - CHANGING NAMES OF CERTAIN STREETS AND NAMING NEW SECTIONS OF STREETS - COLLEGE STREET -CHARLOTTE STREET AREA

Councilwoman Frank moved to schedule a public hearing for August 2, 1983 relative to changing names of certain streets and naming of new sections of streets in the College Street/Charlotte Street area. This motion was seconded by Vice-Mayor Price and carried unanimously.

ADJOURNMENT

Upon motion of Vice-Mayor Price, seconded by Councilman Pless, the meeting adjourned at 4:45 p. m.

Ray M. Trantham
MAYOR

Miriam S. Nolcott
CITY CLERK

The City needs to establish a policy requiring that developers or property owners involved in any construction project take action to maintain existing sidewalks, curbs and drive entrances and requiring developers or property owners involved in any construction project be responsible for placing any new sidewalks, curbs or drive entrances which are required. This resolution will establish such policies.

Upon motion of Councilman Pless, seconded by Vice-Mayor Price, Resolution No. 83-126 was unanimously adopted.

Complete text of Resolution No. 83-126 will be found in Resolution Book No. 14 at page 112

RESOLUTION NO. 83-127 - RESOLUTION APPROVING REVISED AGREEMENT BETWEEN THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION AND CITY OF ASHEVILLE FOR DISBURSEMENT AND ACCOUNT OF PLANNING FUNDS APPROPRIATED UNDER SECTION 104 (f) OF TITLE 23 UNITED STATES CODE

11. Consideration was given to a resolution approving revised agreement between the North Carolina Department of Transportation and City of Asheville for disbursement and account of planning funds appropriated under Section 104 (f) of Title 23 United States Code.

The City Manager said members of Council were furnished copies of the resolution and it would not be read in its entirety unless there was a specific request to do so.

New regulations require that the agreement between the North Carolina Department of Transportation and the City of Asheville be revised for disbursement and account of planning funds appropriated.

Upon motion of Councilwoman Frank, seconded by Councilman Pless, Resolution No. 83-127 was unanimously adopted.

Complete text of Resolution No. 83-127 will be found in Resolution Book No. 14 at page 113

MOTION RELATIVE TO BIDS FOR CITY HALL RE-ROOFING PROJECT

At the request of the City Manager, Councilwoman Frank moved to authorize the City Engineering Coordinator and the Project Consultant to enter into negotiations with the low bidder to attempt to reduce the amount of the bid to reflect fund availability, as allowed by North Carolina General Statute 143-126. This motion was seconded by Vice-Mayor Price and carried unanimously.

RESOLUTION NO. 83-128 - RESOLUTION AUTHORIZING RETENTION OF OUTSIDE LEGAL COUNSEL TO REPRESENT THE CITY OF ASHEVILLE BEFORE THE NORTH CAROLINA INDUSTRIAL COMMISSION

Consideration was given to a resolution authorizing retention of outside legal counsel to represent the City of Asheville before the North Carolina Industrial Commission.

The City Manager read the resolution stating that this resolution would authorize Gallagher Bassett Insurance Service to retain John Powell to represent the City's interest in the Shelton Bradford case to be heard before the North Carolina Industrial Commission on July 27, 1983 and subsequent proceedings in connection therewith.

3. A public hearing was held relative to the rezoning of property located on Twentieth Street.

Mayor Trantham opened the public hearing at 4:30 p.m.

The City Manager presented the notice to the public setting the time and date of the public hearing and the affidavit of publication.

Sonya Luckadoo, Planning Tech II, said the Asheville Planning and Zoning Commission, at a meeting held July 13, 1983, considered the request of Mr. John P. Caldwell that Ward 6, Sheet 22, Lot 77 (located on Twentieth Street) be rezoned from CS Commercial Service District to R-3 Residential District. After discussing the issues of this request, the Commission voted to recommend approval of the petition to City Council.

Mayor Trantham closed the public hearing at 4:35 p.m.

The City Manager said members of Council were furnished copies of the ordinance and it would not be read in its entirety unless there was a specific request to do so.

Councilwoman Frank moved the adoption of Ordinance No. 1386. This motion was seconded by Vice-Mayor Price.

On a roll call vote of 6-1, Ordinance No. 1386 passed on its first reading (with Councilman McDevitt voting no).

PUBLIC HEARING - SITE PLAN OF THE PROPOSED ADDITION OF A MAINTENANCE/CUSTODIAL BUILDING AT ASHEVILLE-BUNCOMBE TECHNICAL INSTITUTE

4. A public hearing was held relative to the site plan of the proposed addition of a maintenance/custodial building at Asheville-Buncombe Technical Institute.

Mayor Trantham opened the public hearing at 4:32 p.m.

The City Manager presented the notice to the public setting the time and date of the public hearing and the affidavit of publication.

Sonya Luckadoo, Planning Tech II, said the Asheville Planning and Zoning Commission, at a meeting held July 13, 1983, reviewed the site plan of the proposed addition of a Maintenance/Custodial Building at Asheville-Buncombe Technical Institute. The plan was prepared by Wood and Cort, Architects, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion of the plan, the Commission voted to recommend approval to City Council subject to compliance with the Erosion Control Ordinance.

Upon inquiry of Vice-Mayor Price, Mr. Wood, Architect, explained the process of getting up to the new building.

Mayor Trantham closed the public hearing at 4:45 p.m.

Councilman Pless moved to approve the site plan of the proposed addition of a maintenance/custodial building at Asheville-Buncombe Technical Institute. This motion was seconded by Vice-Mayor Price and carried unanimously.

Tuesday - August 2, 1983 - 4:00 p.m.

Regular Meeting

Present: Mayor Roy M. Trantham, Presiding; Vice-Mayor Norma T. Price; Councilwomen Mary Lloyd Frank and Wilhelmina Bratton; Councilmen Gordon Myers, Larry McDevitt and Joe Pless; Corporation Counsel William F. Slawter; City Manager K. M. Michalove; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: None

INVOCATION

The invocation was given by Councilwoman Mary Lloyd Frank.

APPROVAL OF THE MINUTES

1. Approval of the minutes of the July 26, 1983, meeting.

Upon motion of Vice-Mayor Price, seconded by Councilwoman Frank, the minutes of the July 26, 1983, meeting were unanimously approved as submitted.

PUBLIC HEARING - REZONING PROPERTY ON LYMAN STREET

ORDINANCE NO. 1385 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED

2. A public hearing was held relative to the rezoning of property on Lyman Street.

Mayor Trantham opened the public hearing at 4:17 p.m.

The City Manager presented the notice to the public setting the time and date of the public hearing and the affidavit of publication.

Sonya Luckadoo, Planning Tech II, said the Asheville Planning and Zoning Commission, at a meeting held July 13, 1983, considered the request of the Housing Authority of the City of Asheville that a portion of Lot 30, Sheet 5, Ward 4, be rezoned from OI Office Institutional District to LI Light Industrial District. After discussing the issues of this request, the Commission voted to recommend approval of the petition to City Council and recommended that a buffer strip be required in accordance with Section 30-3-14 of the Zoning Ordinance.

After discussion, Mayor Trantham closed the public hearing at 4:23 p.m.

The City Manager said members of Council were furnished copies of the ordinance and it would not be read in its entirety unless there was a specific request to do so.

Councilwoman Frank moved for the adoption of Ordinance No. 1385. This motion was seconded by Councilman Myers.

On a roll call vote of 7-0, Ordinance No. 1385 passed on its first reading.

PUBLIC HEARING - REZONING PROPERTY LOCATED ON TWENTIETH STREET

ORDINANCE NO. 1386 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED

Vice-Mayor Price seconded the motion to amend the resolution.

Upon motion of Councilwoman Frank, seconded by Vice-Mayor Price, Resolution No. 83-128, as amended, was unanimously adopted.

Complete text of Resolution No. 83-128 will be found in Resolution Book No. 14 at page 115.

PUBLIC HEARING - CLOSING A PORTION OF JOHN STREET AND A PORTION OF RALPH STREET

RESOLUTION NO. 83-129 - RESOLUTION TO CLOSE A PORTION OF JOHN STREET AND A PORTION OF RALPH STREET

6. A public hearing was held relative to closing a portion of John Street and a portion of Ralph Street.

Mayor Trantham opened the public hearing at 4:56 p.m.

The City Manager presented the notice to the public setting the time and date of the public hearing and the affidavit of publication.

Mr. Larry Holt, Deputy Director of the Housing Authority of the City of Asheville, said that the curves were eliminated on these two streets which made available a section of right-of-way. He said that if these portions are closed, they will be able to convey the property to a developer who can include them in their property.

Mayor Trantham closed the public hearing at 5:01 p.m.

The City Manager said members of Council were furnished copies of the resolution and it would not be read in its entirety unless there was a specific request to do so.

Upon motion of Councilman McDevitt, seconded by Vice-Mayor Price, Resolution No. 83-129 was unanimously adopted.

Complete text of Resolution No. 83-129 will be found in Resolution Book No. 14 at page 112.

PUBLIC HEARING - CHANGING NAMES OF CERTAIN STREETS AND NAMING NEW SECTIONS OF STREETS

RESOLUTION NO. 83-130 - RESOLUTION TO CHANGE NAMES OF CERTAIN STREETS AND NAMING OF NEW SECTIONS OF STREETS

7. A public hearing was held relative to changing names of certain streets and naming new sections of streets.

Mayor Trantham opened the public hearing at 5:02 p.m.

The City Manager presented the notice to the public setting the time and date of the public hearing and the affidavit of publication.

The City Manager read the resolution stating that:

RESOLUTION NO. 83-128A - RESOLUTION TO CLOSE PORTIONS OF OLD CARROLL AVENUE, PORTION OF EDGE HILL AVENUE, NEW STREET, SORRELLS STREET, PORTION OF WEAVER STREET, PORTION OF UN-NAMED ALLEY OFF WEAVER STREET, PORTION OF UN-NAMED ALLEY OFF CURVE STREET, PORTIONS OF OLD BEAUMONT STREET, PORTION OF DUNDEE STREET, PORTION OF RIDGE STREET, PORTIONS OF CURVE STREET, PORTION OF MILLER STREET, PORTION OF BEAUMONT STREET, PORTION OF GAITHER STREET, PORTION OF OLD PINE STREET AND PORTIONS OF UN-NAMED ALLEY OFF HAZZARD STREET

PUBLIC HEARING - CLOSE PORTIONS OF OLD CARROLL AVENUE, PORTION OF EDGE HILL AVENUE, NEW STREET, SORRELLS STREET, PORTION OF WEAVER STREET, PORTION OF UN-NAMED ALLEY OFF WEAVER STREET, PORTION OF UN-NAMED ALLEY OFF CURVE STREET, PORTIONS OF OLD BEAUMONT STREET, PORTION OF DUNDEE STREET, PORTION OF RIDGE STREET, PORTIONS OF CURVE STREET, PORTION OF MILLER STREET, PORTION OF BEAUMONT STREET, PORTION OF GAITHER STREET, PORTION OF OLD PINE STREET AND PORTIONS OF UN-NAMED ALLEY OFF HAZZARD STREET

5. A public hearing was held relative to closing the above named streets and alleys.

Mayor Trantham opened the public hearing at 4:46 p.m.

The City Manager presented the notice to the public setting the time and date of the public hearing and the affidavit of publication.

Mr. Larry Holt, Deputy Executive Director of the Housing Authority of the City of Asheville, said that the purpose of these closings is to ratify what was approved in the Redevelopment Plan for the East End/Valley Street Neighborhood Improvement Plan. By use of a map, he showed all the areas that the Housing Authority wants closed.

Mayor Trantham closed the public hearing at 4:52 p.m.

The City Manager said that members of Council were furnished copies of the resolution and it would not be read in its entirety unless there was a specific request to do so.

Councilwoman Frank moved for the adoption of this resolution. This motion was seconded by Vice-Mayor Price.

Councilman McDevitt questioned whether or not the City did, in fact, have the right to maintain our water and sewer lines once the portions of said streets were permanently closed and asked Corporate Counsel Slawter to review the resolution prior to voting on it.

Councilwoman Frank moved to amend the resolution as follows:

"NOW, THEREFORE, Be it resolved and ordered by the Council of the City of Asheville:

That the Council of the City of Asheville does hereby permanently close the portions of said streets lying within the City of Asheville and more particularly described as follows: "SEE ATTACHMENTS"

The City of Asheville for itself and its successors in interest does hereby expressly reserve an easement within said areas described for the purposes of installing, maintaining and repairing water and sewer lines and the right to go upon said property for said purposes."

Upon motion of Councilman Pless, seconded by Councilwoman Bratton, Resolution No. 83-131 was unanimously adopted.

Complete text of Resolution No. 83-131 will be found in Resolution Book No. 14 at page 125

RESOLUTION NO. 83-132 - RESOLUTION AUTHORIZING THE MAYOR TO SIGN ON BEHALF OF THE CITY OF ASHEVILLE A CONTRACT WITH PAVING ENTERPRISES, INC. FOR THE PROJECT KNOWN AS HAYWOOD STREET WIDENING PROJECT

9. Consideration was given to a resolution authorizing the Mayor to sign on behalf of the City of Asheville a contract with Paving Enterprises, Inc. for the project known as Haywood Street Widening Project.

The City Manager read the resolution stating that bids were received on July 18, 1983, for the Haywood Street Widening Project. He said that Paving Enterprises, Inc. is the apparent low bidder for this contract in the amount of $25,563.75.

Upon motion of Councilwoman Bratton, seconded by Councilwoman Frank, Resolution No. 83-132 was unanimously adopted.

Complete text of Resolution No. 83-132 will be found in Resolution Book No. 14 at page 126

RESOLUTION NO. 83-133 - RESOLUTION ABOLISHING ECONOMIC DEVELOPMENT AS A DEPARTMENT OF THE CITY

10. Consideration was given to a resolution abolishing Economic Development as a department of the City.

The City Manager stated that members of Council were furnished copies of the resolution and it would not be read in its entirety unless there was a specific request to do so.

Upon motion of Councilman McDevitt, seconded by Councilwoman Bratton, Resolution No. 83-133 was unanimously adopted.

Complete text of Resolution No. 83-133 will be found in Resolution Book No. 14 at page 127

Mayor Trantham left the meeting at 5:25 p.m.

RESOLUTION NO. 83-134 - RESOLUTION APPOINTING A CABLE TELEVISION STUDY COMMITTEE

11. Consideration was given to a resolution appointing a Cable Television Study Committee.

The City Manager read the resolution which appointed Mr. Robert Petty, Mr. W. P. Winslow, Ms. Mary Ann McMahan, Mr. Glenn Snipes and Mr. Alan Meierhoefer as the members of the Cable Television Study Committee.

Corporate Counsel Slawter raised the following questions for Council to consider:

1. Should the duration of the committee be stated?

1. Poplar Street, extending College Street from the intersection of Valley, Oak and College Streets be named College Street.

2. The new section of Valley Street extending from Charlotte Street to Biltmore Avenue be renamed to South Charlotte Street.

3. The remaining section of Old Valley Street from Biltmore Avenue to NCDOT right-of-way for the new Valley Street be renamed to McCormick Street.

4. The aforementioned changes in street names are to be effective November 1, 1983.

Mayor Trantham closed the public hearing at 5:04 p.m.

Upon motion of Councilwoman Frank, seconded by Councilman McDevitt, Resolution No. 83-130 was unanimously adopted.

Complete text of Resolution No. 83-130 will be found in Resolution Book No. 14 at page 124

Councilman McDevitt stated that he had asked for a staff recommendation for re-naming the small stretch of College Street that goes up by the Allen Center to College Street Extension.

RESOLUTION NO. 83-131 - RESOLUTION REQUESTING THE BUNCOMBE COUNTY COMMISSIONERS TO DELETE THE MUNICIPAL GOLF COURSE AND ASTON PARK TENNIS COURTS FROM THE WATER AGREEMENT

8. Consideration was given to a resolution requesting the Buncombe County Commissioners to delete the Municipal Golf Course and Aston Park Tennis Courts from the Water Agreement.

The City Manager read the resolution stating that the Asheville Parks and Recreation Advisory Board has recommended that the continued operation of the Municipal Golf Course and the Aston Park Tennis Courts can best be handled by those facilities remaining under the supervision of the City of Asheville. Therefore, the Council is asking that a request be made to the County of Buncombe and the various water and sewer districts which are a party to the Water Agreement, entered into on October 29, 1981, that said agreement be amended by deleting therefrom all provisions transferring ownership or control of the Municipal Golf Course and the Aston Park Tennis Courts to the County.

Mr. Robert Wurst, Audit/Budget Director, presented the Council with a schedule of the two budgets and reviewed them in detail. He said that these two operations do not affect the City budget significantly and if there could be some changes in operation, there might even be some positive impact on the City budget.

Councilwoman Bratton spoke in favor of the City maintaining these facilities and commended Mr. Carl Logan for the good job he has done in maintaining the Aston Park Tennis Courts.

Vice-Mayor Price stated that she supports this resolution but hoped it would not cause problems where the Water Agreement is concerned.

Mr. Mort Buchwald, resident of Arden, stated that Aston Park Tennis Courts are in very good condition.

HIGHLIGHTS: The Motor Transport Division has approximately 200-300 used tires for which the City has no use. The Motor Transport Superintendent has declared these tires surplus.

FISCAL IMPACT: This action will result in a revenue which will result in reduced Motor Transport charges to user departments. Revenue anticipated $200-$800.

Resolution Book No. 14 at page 131.

C. Resolution No. 83-137 - Resolution amending Resolution No. 80-158 entitled "A Resolution Establishing Rules and Procedures for the Asheville City Council."

HIGHLIGHTS: This amendment deals with an annual budget for training and travel for the City Council and a policy pertaining to same.

FISCAL IMPACT: This policy may result in some cost reductions in Council Training and Travel budget.

Resolution Book No. 14 at page 132.

D. Resolution No. 83-138 - Resolution reappointing members to the Board of Electrical Examiners and members to the Board of Examiners of Motion Picture Operators.

HIGHLIGHTS: This resolution will reappoint Mr. J. Michael Boozer, Mr. Frank Davis, Mr. Larry Keenan, Mr. Walter J. Harlow, and Mr. Malachie Cromartie as members of the Board of Electrical Examiners. This will also reappoint Mr. L. B. Simmons and Mr. Roy Gibbs as members of the Board of Examiners of Motion Picture Operators.

FISCAL IMPACT: None

Resolution Book No. 14 at page 133.

E. Resolution No. 83-139 - Resolution appointing members to the Recreation Board for Asheville.

HIGHLIGHTS: This resolution will reappoint Mrs. Cliff (Amy) Hyatt, Mr. Frank T. Leppert and Mr. Richard Fain as members of the Recreation Board for Asheville.

FISCAL IMPACT: None

Resolution Book No. 14 at page 134.

F. Resolution No. 83-140 - Resolution appointing members to the Asheville Area Civic Center Commission.

HIGHLIGHTS: This resolution will appoint Mr. Gordon Greenwood, Jr., Mr. Joe L. Webster, and Mr. David L. Brown as members of the Asheville Area Civic Center Commission.

2. Should a definite time be set forth for the committee to report to Council?

3. Does there need to be a mechanism for replacement of members of the committee?

Councilman McDevitt moved to amend the resolution by appointing the members to three (3) year terms, not staggered. This motion was seconded by Councilwoman Bratton and carried unanimously.

Councilman McDevitt moved to amend the resolution by requiring that the Committee report to the City Council semi-annually on their work and findings. This motion was seconded by Councilwoman Bratton and carried unanimously.

Upon motion of Councilwoman Bratton, seconded by Councilwoman Frank, Resolution No. 83-134, as amended, was unanimously adopted.

Councilwoman Bratton moved to appoint Mr. W. P. "Pete" Winslow as Acting Chairman of the Cable Television Study Committee. This motion was seconded by Councilman McDevitt and carried unanimously.

Councilman McDevitt moved to request that the Committee submit to City Council a report regarding the immediate rate increase request by September 13, 1983. This motion was seconded by Councilwoman Frank and carried unanimously.

Complete text of Resolution No. 83-134 will be found in Resolution Book No. 14 at page 128.

APPROVAL OF THE CONSENT AGENDA

12. The City Manager said the following items are of a routine nature and they have been previously reviewed by the members of the City Council. Therefore, by unanimous vote to approve these items, the City Council may, by the authority granted to the City Council in Ordinance No. 1008, adopt all of the items with one motion without the full reading and/or separate motion adopting each individual item. Upon the request of a citizen, a member of the City Council, and/or a member of the City staff, any single item scheduled for approval on the consent agenda may be considered separately.

A. Resolution No. 83-135 - Resolution authorizing the Mayor of the City of Asheville to enter into a letter of agreement with the Land-of-Sky Regional Council for the Local Government Energy Officer Program.

HIGHLIGHTS: Under the proposed agreement, the Land-of-Sky Regional Council and the City of Asheville will cooperate in the development and implementation of a comprehensive energy management program within the City operations.

FISCAL IMPACT: The cost of this program is anticipated to be offset by energy savings during the fiscal year.

Resolution Book No. 14 at page 130.

B. Resolution No. 83-136 - Resolution authorizing the Purchasing Director to dispose of property by private sale at a negotiated price.

Tuesday - August 9, 1983 - 4:00 p. m.

Regular Meeting

Present: Vice-Mayor Norma T. Price; Councilwomen Mary Lloyd Frank and Wilhelmina Bratton; Councilmen Gordon Myers and Larry McDevitt; Corporation Counsel William F. Slawter; City Manager K. M. Michalove; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Mayor Roy M. Trantham (attending meeting of N. C. League of Municipalities in Raleigh, N. C.)
Councilman Joe Pless - (vacation)

INVOCATION

The invocation was given by Councilman Gordon Myers.

APPROVAL OF THE MINUTES

1. Approval of the minutes of the August 2, 1983 meeting.

Upon motion of Councilwoman Frank, seconded by Councilman McDevitt, the minutes of the August 2, 1983 meeting were unanimously approved as submitted.

PUBLIC HEARING - BOARD OF ADJUSTMENT TO EXAMINE CERTAIN APPEAL CASES INVOLVING THE INSPECTIONS DIVISION AND THE NORTH CAROLINA STATE BUILDING CODE

ORDINANCE NO. 1387 - AN ORDINANCE AMENDING SECTION 8-1 OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE

2. A public hearing was held relative to an ordinance dealing with procedures that would permit the Board of Adjustment to examine certain appeal cases that involve the Inspections Division and the North Carolina State Building Code.

Vice-Mayor Price opened the public hearing at 4:23 p. m.

The City Manager presented the notice to the public setting the time and date for the public hearing.

The City Manager said the purpose of this ordinance would be to permit a review, by the Board of Adjustment, in cases where a decision of the building inspector is alien to a group of people wanting something done not in compliance with the North Carolina State Building Code. He said this review would be permitted in situations where the group would have the right to appeal directly to the state. He said this amendment is subject to the approval of the North Carolina Building Code Council. He said during the appeal process if the Board of Adjustment turns down a request the appellant could still appeal to the state.

The City Manager gave an example of a recent situation where a group could use this process. He said a church recently outgrew their facilities and wanted to use a trailer for Sunday School classrooms which would be prohibited by the North Carolina State Building Code.

FISCAL IMPACT: None

Resolution Book No. 14 at page 135.

Upon motion of Councilwoman Frank, seconded by Councilman McDevitt, the consent agenda was unanimously approved.

CLAIM - ERNEST STUDWELL (PUBLIC WORKS)

The City Manager presented a claim received from Mr. Ernest Studwell.

Vice-Mayor Price referred the claim to the Corporate Counsel for investigation and recommendation.

PROCLAMATION - AUGUST 5 and 6, 1983 - BUDDY POPPY DAYS FOR THE VETERANS OF FOREIGN WARS OF THE UNITED STATES

Vice-Mayor Price proclaimed August 5 and 6, 1983, as "Buddy Poppy Days" for the Veterans of Foreign Wars of the United States.

COUNCILMAN JOE PLESS - BELE CHERE

Councilman Pless commended the work that Mr. Verl Emrick, Planning Director, and the staff did in coordinating Bele Chere 1983.

COUNCILMAN LARRY McDEVITT - AGENDA ITEM REVIEWS

Councilman McMcDevitt requested that before any matters that need Council action are brought before them, that Corporate Counsel review them and sign off on them before the Council meeting.

ADJOURNMENT

Upon motion of Councilwoman Frank, seconded by Councilman Myers, the meeting adjourned at 5:45 p.m.

MAYOR

CITY CLERK

Vice-Mayor Price said this ordinance was previously read on first reading and would not be re-read in its entirety unless there was a specific request to do so.

On a roll call vote of 5-0, Ordinance No. 1385 passed on second reading.

ORDINANCE NO. 1386 - ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED (Property on Twentieth Street)

4. Consideration was given to the second reading of Ordinance No. 1386, an ordinance amending Ordinance No. 322, known as "An Ordinance Providing for the Zoning of the City of Asheville," as amended rezoning property located on Twentieth Street.

Vice-Mayor Price said this ordinance was previously read on first reading and would not be re-read in its entirety unless there was a specific request to do so.

On a roll call vote of 5-0, Ordinance No. 1386 passed on second reading.

RESOLUTION NO. 83-141 - RESOLUTION AUTHORIZING THE DIRECTOR OF PARKS, RECREATION, AND PUBLIC FACILITIES TO SUBMIT GRANT APPLICATIONS FOR YOUTH COMMUNITY IMPROVEMENT GRANTS

5. Consideration was given to a resolution authorizing the Director of Parks, Recreation and Public Facilities to submit grant applications for Youth Community Improvement Grants.

The City Manager said members of Council were furnished copies of the resolution and it would not be read in its entirety unless there was a specific request to do so.

Note: Metropolitan Life Insurance Company offers small grants in the amount of $250.00 to youth groups for community improvement projects and the Parks, Recreation, and Public Facilities Department sponsors many youth groups who may be interested in seeking said funds.

Upon motion of Councilwoman Frank, seconded by Councilman McDevitt, Resolution No. 83-141 was unanimously adopted.

Complete text of Resolution No. 83-141 will be found in Resolution Book No. 14 at page 130.

RESOLUTION NO. 83-142 - RESOLUTION AUTHORIZING THE PURCHASING DIRECTOR TO EXECUTE A NOTICE OF INTENT WITH THE NORTH CAROLINA DEPARTMENT OF ADMINISTRATION, STATE DIVISION OF PURCHASE AND CONTRACT, FOR PARTICIPATION IN THE NORTH CAROLINA STATE CONTRACT FOR LAW ENFORCEMENT VEHICLES

6. Consideration was given to a resolution authorizing the Purchasing Director to execute a notice of intent with the North Carolina Department of Administration State Division of Purchase and Contract, for participation in the North Carolina State Contract for Law Enforcement Vehicles.

The City Manager said members of Council were furnished copies of the resolution and it would not be read in its entirety unless there was a specific request to do so.

Mr. Charles Dyson, 25 Innsbrook Road, an employee of the Carolina Power and Light Company, spoke in favor of the ordinance. He said he was involved in the situation referred to by the City Manager in that Carolina Power and Light Company offered to provide the church with the trailer.

Carroll Arrowood, 118 Webb Cove Road, with Trinity Presbyterian Church, also spoke in favor of the ordinance stating that his church is involved in the situation where the trailer is needed for the Sunday School classrooms.

Mr. Lem Moore, Director of Inspections Division, said his division must enforce the North Carolina State Building Code and the trailer proposed to be used by the church does not meet the Building Code standards. He said this amendment must be approved by the N. C. Building Code Council before being enforced.

Vice-Mayor Price closed the public hearing at 4:39 p. m.

The City Manager said members of Council were furnished copies of the proposed ordinance and it would not be read in its entirety unless there was a specific request to do so.

Councilwoman Bratton moved for the adoption of Ordinance No. 1387. This motion was seconded by Councilman McDevitt.

On a roll call vote of 5-0, Ordinance No. 1387 passed on first reading.

The City Manager requested that Council pass the ordinance on second and third reading at today's meeting in order to get the amendment on the agenda for the N. C. Building Code Council meeting on September 13, 1983. He said items for the Building Code Council must be submitted at least 30 days prior to the meeting.

Councilman McDevitt moved to suspend the rules and proceed to the second reading of Ordinance No. 1387. This motion was seconded by Councilwoman Bratton and carried unanimously.

On a roll call vote of 5-0, Ordinance No. 1387 passed on second reading.

Councilman McDevitt moved to suspend the rules and proceed to the third reading of Ordinance No. 1387. This motion was seconded by Councilwoman Bratton and carried unanimously.

On a roll call vote of 5-0, Ordinance No. 1387 passed on third and final reading.

Complete text of Ordinance No. 1387 will be found in Ordinance Book No. 10 at page 57.

ORDINANCE NO. 1385 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED (Property on Lyman Street)

3. Consideration was given to the second reading of Ordinance No. 1385, an ordinance amending Ordinance No. 322, known as "An Ordinance Providing for the Zoning of the City of Asheville," as amended rezoning property on Lyman Street from OI Office Institutional District to LI Light Industrial District.

The City Manager also presented the following report:

Mon., 8 Aug., '83

Memo to Wm. Wolcott

re: Oak Ridge Villas, Riverview Dr.

Permit #163 (Erosion Ordinance)

An inspection of the above site, this date, shows that the site appears to be adequately protected against the discharge of mud and silt from construction operations onto adjacent property, public and private, meeting the Ordinance.

Landscaping operations (seeding, pine needles, shrubbry, etc.) are underway. Silt fences are in place.

The developer has a history of prompt and effective response to calls relating to this project.

The gravel trench detention device has been installed and its dimensions exceed the approved design. You will recall that the developer, Mr. Charles Burnette, had agreed to either install this device or to connect to the City's storm sewer system if it was in place before he was ready to build the device.

It is not anticipated that the developed site will be in violation of the Ordinance.

Wm. T. Besser

The City Manager said he also received cost estimates from the Engineering Division dealing with drainage in this area in phases. He said Phase I installing drainage pipe from the project down Avon Street and emptying into existing drain channels would be $23,280; phase II installing drainage pipe in other areas would be $73,800 and Phase III installing additional pipes would be $94,992. He said no money has been budgeted for these installations. He said the City Staff appears to be satisfied with the project as it is being developed. He said he was waiting on recommendations from the Mr. Brown, Director of Public Works, relative to this project.

A discussion was held relative to what action is being taken by the developer on the project, the plans approved by Council, and the motion made by Council approving the project.

Albert Crook, 72 Euclid Blvd., spoke to Council in opposition to the manner in which the project is being constructed, particularly referring to the drainage and a tree which the developer cut the roots from and is in danger of falling.

After discussion, it was the consensus of Council that the City Manager, City Staff, and the Corporation Counsel would look into the concerns expressed by Mr. Sprinkle and Mr. Crook.

Upon motion of Councilwoman Frank, seconded by Councilman Myers, Resolution No. 83-142 was unanimously adopted.

Complete text of Resolution No. 83-142 will be found in Resolution Book No. 14 at page 137

CITY HALL REROOFING PROJECT - CONTRACT NEGOTIATIONS - READVERTISE BIDS

Upon recommendation of the City Manager, the City Engineer,and the Project Consultant, Councilwoman Frank moved not to accept the bids received for the project known as the City Hall Building Reroofing Project, that the specifications be rewritten, and the project rebid. This motion was seconded by Councilwoman Bratton and carried unanimously.

CLAIMS - SUMNER & FOSTER REALTORS (WATER & SEWER) - MARY B. LEWIS (PUBLIC WORKS)

The City Manager presented claims received from Sumner & Foster Realtors and Mary B. Lewis.

Vice-Mayor Price referred the claims to the Corporation Counsel for investigation and recommendation.

PUBLIC HEARING SCHEDULED - REZONING OF PROPERTY IN THE OAKLEY DOGWOOD DRIVE AREA

Councilman Myers moved to schedule a public hearing relative to rezoning property in the Oakley Dogwood Drive Area from R-5 Residential District to R-2 Residential District for August 30, 1983. This motion was seconded by Councilwoman Frank and carried unanimously.

DISCUSSION RELATIVE TO "OAK RIDGE VILLAS" - RIVERVIEW DRIVE - FRED R. SPRINKLE

Mr. Fred R. Sprinkle, 53 Euclid Blvd., appeared before Council complaining that the developers of the "Oak Ridge Villas" being constructed on Riverview Drive are not developing the project as specified by the City Council. He said the developers are installing the water lines and drainage system in a way that the storm drainage will be on his property.

The City Manager said at the November 24, 1982 Council meeting when the site plan for "Oak Ridge Villas" was approved the following motion was adopted:

"After discussion, Vice-Mayor Price moved to approve the site plan of the "Oak Ridge Villas" project subject to the Erosion Control standards that would be necessary for the project and to tie into the city system to improve the drainage system in the area as well as for the project. This motion was seconded by Councilman Myers and carried unanimously."

"During discussion of the above motion, a discussion was held relative to sewer and drainage problems in the area which have existed for some time. Council directed that the staff prepare an engineering report outlining the solutions to these existing problems and the cost involved in same."

Tuesday - August 16, 1983 - 4:00 p. m.

Regular Meeting

Present: Mayor Roy M. Trantham, Presiding; Vice-Mayor Norma T. Price; Councilwomen Mary Lloyd Frank and Wilhelmina Bratton; Councilmen Gordon Myers, Larry McDevitt and Joe Pless; Corporation Counsel William F. Slawter; City Manager K. M. Michalove; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: None

INVOCATION

The invocation was given by Councilwoman Wilhelmina Bratton.

APPROVAL OF THE MINUTES

1. Approval of the minutes of the August 9, 1983 meeting.

Upon motion of Vice-Mayor Price, seconded by Councilman McDevitt, the minutes of the August 9, 1983 meeting were unanimously approved as submitted.

ORDINANCE NO. 1385 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED (Lyman Street area)

2. Consideration was given to the third and final reading of Ordinance No. 1385, an ordinance amending Ordinance No. 322, known as "An Ordinance Providing for the Zoning of the City of Asheville," as amended rezoning property on Lyman Street at the request of the Housing Authority of the City of Asheville.

Mayor Trantham said this ordinance was previously read on first and second readings and would not be re-read in its entirety unless there was a specific request to do so.

On a roll call vote of 7-0, Ordinance No. 1385 passed on third and final reading.

Complete text of Ordinance No. 1385 will be found in Ordinance Book No. 10 at page 55.

RESOLUTION NO. 83-143 -RESOLUTION OF APPRECIATION TO EUGENE OCHSENREITER, JR., FESTIVAL CHAIRMAN, BELE CHERE 1983

3. Consideration was given to a resolution of appreciation to Eugene Ochsenreiter, Jr., Festival Chairman, Bele Chere 1983.

The City Manager read the resolution.

Upon motion of Councilman Myers, seconded by Councilwoman Frank, Resolution No. 83-143 was unanimously adopted.

Complete text of Resolution No. 83-143 will be found in Resolution Book No. 14 at page 138

RALPH BISHOP - RE: CHAMBER OF COMMERCE ALLOCATIONS

Mr. Ralph Bishop appeared before Council opposing allocations to the Chamber of Commerce.

ADJOURNMENT

Upon motion of Councilman McDevitt, seconded by Councilman Myers, the meeting adjourned at 5:45 p. m.

Ray M. Trantham
MAYOR

William F. Wolcott
CITY CLERK

RESOLUTION NO. 83-146 - RESOLUTION AUTHORIZING THE CITY ENGINEERING DIVISION AND CORPORATE COUNSEL TO ENTER INTO NEGOTIATIONS ON BEHALF OF THE CITY OF ASHEVILLE WITH SUTTON-KENNERLY AND ASSOCIATES FOR ENGINEERING SERVICES ON THE PROJECT KNOWN AS CIVIC CENTER ROOF PROJECT

7. Consideration was given to a resolution authorizing the City Engineering Division and Corporate Counsel to enter into negotiations on behalf of the City of Asheville with Sutton-Kennerly and Associates for engineering services on the project known as the Civic Center Roof Project.

The City Manager said members of Council were furnished copies of the resolution and it would not be read in its entirety unless there was a specific request to do so.

Note: Sutton-Kennerly and Associates is the selected consultant to provide engineering services for the Civic Center Roof Project. The Consultant Review Committee has verified and approved the qualifications of Sutton-Kennerly and Associates. This resolution will authorize the negotiations with Sutton-Kennerly and Associates for the purpose of determining the compensation for and scope of engineering services needed.

Upon motion of Councilwoman Frank, seconded by Councilman Myers, Resolution No. 83-146 was unanimously adopted.

Complete text of Resolution No. 83-146 will be found in Resolution Book No. 14 at page 141

ORDINANCE NO. 1388 -BUDGET ORDINANCE AMENDMENT TO SET UP APPROPRIATION FOR PAYMENT TO RETIRED MEMBERS AND SURVIVORS OF THE ASHEVILLE POLICE PENSION & DISABILITY FUND

8. Consideration was given to a budget ordinance amendment in the amount of $40,000 to set up separate appropriation for payment to retired members and survivors of the Asheville Police Pension and Disability Fund.

The City Manager read the budget ordinance amendment.

Councilman Pless moved for the adoption of Ordinance No. 1388. This motion was seconded by Councilwoman Frank.

On a roll call vote of 7-0, Ordinance No. 1388 passed on first and final reading.

Complete text of Ordinance No. 1388 will be found in Ordinance Book No. 10 at page 58.a

CLAIMS - FREDERICK VOGEL (POLICE) - JOHNNY BAILEY (PUBLIC WORKS) - BETTY BRAMER (PUBLIC WORKS) - WILLIE E. JONES (WATER & SEWER) - DOROTHY EDGERTON (WATER & SEWER) - BONITA ROBERTS (WATER & SEWER)

9. The City Manager presented claims received from Frederick Vogel, Johnny Bailey, Betty Bramer, Willie E. Jones, Dorothy Edgerton, and Bonita Roberts.

Mayor Trantham referred the claims to the Corporation Counsel for investigation and recommendation.

RESOLUTION NO. 83-144 - RESOLUTION OF APPRECIATION TO THE PARTICIPANTS OF BELE CHERE 1983

4. Consideration was given to a resolution of appreciation to the participants of Bele Chere 1983.

The City Manager read the resolution.

Upon motion of Councilwoman Bratton, seconded by Councilman Pless, Resolution No. 83-144 was unanimously adopted.

Complete text of Resolution No. 83-144 will be found in Resolution Book No. 14 at page [redacted]139

ORDINANCE NO. 1386 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED (Twentieth Street)

5. Consideration was given to the third and final reading of Ordinance No. 1386, an ordinance amending Ordinance No. 322, known as "An ordinance providing for the Zoning of the City of Asheville," as amended rezoning property located on Twentieth Street.

Mayor Trantham said this ordinance was previously read on first and second readings and would not be re-read in its entirety unless there was a specific request to do so.

On a roll call vote of 6-1, Ordinance No. 1386 passed on third and final reading with Councilman McDevitt voting "no."

Complete text of Ordinance No. 1386 will be found in Ordinance Book No. 10 at page [redacted]56.

RESOLUTION NO. 83-145 - RESOLUTION AUTHORIZING THE MAYOR TO SIGN ON BEHALF OF THE CITY OF ASHEVILLE A CONTRACT WITH BANKS BROTHERS CONSTRUCTION COMPANY FOR THE PROJECT KNOWN AS ASHEVILLE TRANSIT AUTHORITY PARKING LOT IMPROVEMENTS

6. Consideration was given to a resolution authorizing the Mayor to sign on behalf of the City of Asheville a contract with Banks Brothers Construction Company for the project known as Asheville Transit Authority Parking Lot Improvements.

The City Manager said members of Council were furnished copies of the resolution and it would not be read in its entirety unless there was a specific request to do so.

Note: Bids were opened on August 2, 1983, for the Asheville Transit Authority Parking Lot Improvements Project. Banks Brothers Construction Company is the apparent low bidder for this contract in the amount of $26,620.00.

Upon motion of Vice-Mayor Price, seconded by Councilwoman Frank, Resolution No. 83-145 was unanimously adopted.

Complete text of Resolution No. 83-145 will be found in Resolution Book No. 14 at page [redacted]140

Tuesday - August 23, 1983 - 4:00 p. m.

Regular Meeting

Present: Mayor Roy M. Trantham, Presiding; Vice-Mayor Norma T. Price; Councilwomen Mary Lloyd Frank and Wilhelmina Bratton; Councilmen Gordon Myers, Larry McDevitt and Joe Pless; Corporation Counsel William F. Slawter; City Manager K. M. Michalove; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: None

INVOCATION

The invocation was given by Councilman Joe Pless.

APPROVAL OF THE MINUTES

1. Approval of the minutes of the August 16, 1983 meeting.

Upon motion of Councilman McDevitt, seconded by Vice-Mayor Price, the minutes of the August 16, 1983 meeting were unanimously approved as submitted.

RESOLUTION NO. 83-148 - RESOLUTION EXPRESSING APPRECIATION TO THOSE WHO HELPED TO BRING THE GRADUATE INDUSTRIAL ENGINEERING PROGRAM TO UNC-A

2. Consideration was given to a resolution expressing appreciation to those who helped to bring the graduate industrial engineering program to UNC-A.

Mayor Trantham noted that the Buncombe County delegation to the General Assembly, the governor, local industrial leaders, government officials and civic groups were recently instrumental in receiving unanimous approval for the establishment of a master's degree program in industrial engineering at UNC-A.

Mr. Maury Winger, Dr. William Highsmith, Mr. Philip Carson, and Mr. Karl Straus, Representative Marie Colton, and Representative Narvel "Jim" Crawford were present for the reading of the resolution.

The City Manager read the resolution.

Mayor Trantham presented the resolution of appreciation to Dr. William Highsmith, Chancellor for UNC-A.

Upon motion of Councilwoman Bratton, seconded by Councilwoman Frank, Resolution No. 83-148 was unanimously adopted.

Complete text of Resolution No. 83-148 will be found in Resolution Book No. 14 at page [redacted]143

ORDINANCE NO. 1389 - BUDGET ORDINANCE AMENDMENT PROVIDING FUNDING FOR THE CDBG-JOBS BILL PROJECT

3. Consideration was given to a budget ordinance amendment providing funding for the CDBG-Jobs Bill Project.

The City Manager said members of Council were furnished copies of the ordinance and it would not be read in its entirety.

Note: This budget amendment in the amount of $538,000 will provide funding for the CDBG-Jobs Bill project.

RESOLUTION NO. 83-147 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO CONTRACTS WITH PAMELA PATTERSON AND TALMADGE PENLAND TO PROVIDE LEGAL SERVICES FOR THE INSPECTIONS DIVISION

10. Consideration was given to a resolution authorizing the City Manager to enter into contracts with Pamela Patterson and Talmadge Penland to provide legal services for the Inspections Division.

The City Manager read the resolution.

Upon motion of Councilman Myers, seconded by Councilman Pless, Resolution No. 83-147 was unanimously adopted.

Complete text of Resolution No. 83-147 will be found in Resolution Book No. 14 at page 142

RALPH BISHOP - LOTTERY SALES

Ralph Bishop again spoke to members of Council relative to the lottery sales in the City of Asheville.

CONTINUATION OF MEETING IN COUNCIL CONFERENCE ROOM

Councilman Myers moved to continue the Council meeting in the City Council Conference Room. This motion was seconded by Councilwoman Bratton and carried unanimously.

EXECUTIVE SESSION - LAWSUIT

Councilman Pless moved to go into executive session to discuss an ongoing lawsuit.

At the conclusion of the executive session, the Corporation Counsel reported that the majority of the Council members authorized the appeal of the Wayne Warren judgement to the Court of Appeals.

ADJOURNMENT

Upon motion of Councilman Pless, seconded by Councilwoman Frank, the meeting adjourned.

MAYOR

CITY CLERK

APPROVAL OF THE CONSENT AGENDA

6. The following items are of a routine nature and they have been previously reviewed by the members of the City Council. Therefore, by unanimous vote to approve these items, the City Council may, by the authority granted to the City Council in Ordinance No. 1008, adopt all of the items with one motion without the full reading and/or separate motion adoption each individual item. Upon the request of a citizen, a member of the City Council, and/or a member of the city staff, any single item scheduled for approval on the consent agenda may be considered separately.

A. Resolution No. 83-150 - Resolution authorizing the City Manager to renew a contract with WNC Parking Lot Services, Incorporated.

HIGHLIGHTS: This resolution will renew the current contract with WNC Parking Lot Services, Incorporated for the purpose of cleaning the Civic Center Parking Garage.

FISCAL IMPACT: This contracted service in the amount of $775.00 per month is more economical than if the City undertook the function itself when capital requirements and labor costs are included.

Resolution Book No. 14 - page 145.

B. Scheduling public hearing relative to a proposed wording amendment to the Asheville Zoning Ordinance - Section 30-9-1 - Signs, for September 13, 1983.

HIGHLIGHTS: The Asheville Planning and Zoning Commission at a meeting held August 3, 1983, reviewed the request from the Inspections Department that Section 30-9-1 (C-10) be amended by deleting the words "A" frame or sandwich board" from the first sentence. After discussion, the Commission voted unanimously to recommend this amendment to City Council.

FISCAL IMPACT: None

C. Scheduling public hearing relative to the site plan of "Windswept View" condominiums to be located on Windswept Drive for September 6, 1983.

HIGHLIGHTS: The Asheville Planning and Zoning Commission at a meeting held August 3, 1983, reviewed the site plan of "Windswept Views" condominiums to be located on an eight acre site on Windswept Drive. The site plan was prepared by Roger Lyda, P. E., for Doup Bebber and Ellen Goldstein, Developers, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion of the plan, the Commission voted to recommend approval of Phase I of this project to City Council provided there is a 16' paved access to a major thoroughfare of like width, and provided it meets the City's Erosion Control Ordinance. (This approval would grant a 10' setback variance in front of Building #2.)

Vice-Mayor Price moved for the adoption of Ordinance No. 1389. This motion was seconded by Councilwoman Frank.

On a roll call vote of 7-0, Ordinance No. 1389 passed on first and final reading.

Complete text of Ordinance No. 1389 will be found in Ordinance Book No. 10 at page [redacted].59.ca

ORDINANCE NO. 1390 - BUDGET ORDINANCE AMENDMENT TO SET UP THE ARC GRANT PORTION OF THE AIRPORT SEWER LINE PROJECT IN COMMUNITY DEVELOPMENT

4. Consideration was given to a budget ordinance amendment to set up the ARC Grant portion of the Airport Sewer Line Project in Community Development.

The City Manager said members of Council were furnished copies of the ordinance and it would not be read in its entirety.

Note: This budget amenment will set up the ARC Grant portion of the Airport Sewer Line Project in Community Development. (The ARC Grant must flow through Community Development Fund.) The Capital Project Budget for the Airport Sewer Line has already been approved in the amount of $230,300.

Councilman McDevitt moved for the adoption of Ordinance No. 1390. This motion was seconded by Councilman Pless.

On a roll call vote of 7-0, Ordinance No. 1390 passed on first and final reading.

Complete text of Ordinance No. 1390 will be found in Ordinance Book No. 10 at page [redacted] 60.ca

RESOLUTION NO. 83-149 - RESOLUTION DIRECTING THE ASHEVILLE PLANNING AND ZONING COMMISSION TO PROCEED TO DETERMINE THE APPLICABILITY OF ARTICLE 22, CHAPTER 160A-500-526 OF THE NORTH CAROLINA GENERAL STATUTES FOR THE PROPOSED DOWNTOWN PROJECT

5. Consideration was given to a resolution directing the Asheville Planning and Zoning Commission to proceed to determine the applicability of Article 22, Chapter 160A-500-526 of the North Carolina General Statutes for the proposed downtown project.

The City Manager read the resolution.

Upon motion of Vice-Mayor Price, seconded by Councilwoman Frank, Resolution No. 83-149 was unanimously adopted.

Complete text of Resolution No. 83-149 will be found in Resolution Book No. 14 at page [redacted].144

ORDINANCE NO. 1392 - BUDGET ORDINANCE AMENDMENT TO APPROPRIATE UMTA TECHNICAL STUDIES GRANT

Consideration was given to a budget ordinance amendment to appropriate UMTA Technical Studies Grant.

The City Manager read the ordinance stating that this budget amendment in the amount of $27,000 will appropriate UMTA Technical Studies Grant.

Councilman McDevitt moved for the adoption of Ordinance No. 1392. This motion was seconded by Councilwoman Frank.

On a roll call vote of 7-0, Ordinance No. 1392 passed on first and final reading.

Complete text of Ordinance No. 1392 will be found in Ordinance Book No. 10 at page 62.

PROCLAMATION - PEACE DAY - SUNDAY, OCTOBER 2, 1983

Mayor Trantham proclaimed Sunday, October 2, 1983 as "Peace Day."

APPROVAL FOR STREET BANNER FOR YMI FESTIVAL

At the request of the YMI Cultural Center, Vice-Mayor Price moved to approve the request to place a banner across Eagle Street in conjunction with a street festival to be held around the YMI Building and in the City-County Plaza area. This motion was seconded by Councilwoman Bratton and carried unanimously.

RESOLUTION NO. 83-152 - RESOLUTION AUTHORIZING THE CLOSING OF A PORTION OF MARKET STREET AND EAGLE STREET AND WAIVING OF SECTION 25-5 AND 25-6 OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE ON SATURDAY, AUGUST 27, 1983 FROM 6:00 P. M. UNTIL MIDNIGHT

Consideration was given to a resolution authorizing the closing of a portion of Market and Eagle Street and waiving Section 25-5 and 25-6 of the Code of Ordinances of the City of Asheville on Saturday, August 27, 1983 from 6:00 p. m. until midnight.

The City Manager read the resolution.

Upon motion of Vice-Mayor Price, seconded by Councilwoman Bratton, Resolution No. 83-152 was unanimously adopted.

Complete text of Resolution No. 83-152 will be found in Resolution Book No. 14 at page 148.

CLAIMS- JOHN H. THOMAS (PUBLIC WORKS) - JONES TYSINGER (PUBLIC WORKS) - MARTIN GROSS (PUBLIC WORKS)

The City Manager presented claims received from John H. Thomas, Jones Tysinger, and Martin Gross.

Mayor Trantham referred the claims to the Corporation Counsel for investigation and recommendation.

FISCAL IMPACT: A conservative estimate of the real property tax base for this project is from 4 to 5 million dollars. The developer estimates ad valorem taxes (City and County) of $65,000 per year.

D. Resolution No. 83-151 - Resolution authorizing the filing of an application with the Department of Transportation, United States of America for a grant under the Urban Mass Transportation Act of 1964, as amended.

HIGHLIGHTS: This resolution was omitted when the application was approved in June of this year. There are three (3) sources of funding for the FY '84 Technical Studies Grant and only two (2) resolutions were approved in June. (Resolutions 83-97 and 83-99)

FISCAL IMPACT: This will complete the agreements for a technical studies grant in the amount of $30,000. $24,000 federal funding; $3,000 State funding; $3,000 City funding.

Resolution Book No. 14 page 146

Upon motion of Councilwoman Frank, seconded by Councilman McDevitt, the consent agenda was unanimously approved.

BEAR DEN AT NATURE CENTER - APPROVED

At the request of the County of Buncombe, Councilman McDevitt moved to approve the construction of a Bear Den at the Nature Center in accordance with Article II of the Lease Agreement for the Nature Center, entered into on October 1, 1976. This motion was seconded by Councilman Pless and carried unanimously.

ORDINANCE NO. 1391 - BUDGET ORDINANCE AMENDMENT TO PROVIDE FUNDING FOR THE DOWNTOWN REDEVELOPMENT STUDY

Consideration was given to a budget ordinance amendment to provide funding for the Downtown Redevelopment Study.

The City Manager read the ordinance stating that this budget amendment in the amount of $15,000 would provide funding for the Downtown Redevelopment Study.

Councilwoman Frank moved for the adoption of Ordinance No. 1391. This motion was seconded by Vice-Mayor Price.

On a roll call vote of 7-0, Ordinance No. 1391 passed on first and final reading.

Complete text of Ordinance No. 1391 will be found in Ordinance Book No. 10 at page 61.

Tuesday - August 30, 1983 - 4:00 p. m.

Regular Meeting

Present: Mayor Roy M. Trantham, Presiding; Vice-Mayor Norma T. Price; Councilwomen Mary Lloyd Frank and Wilhelmina Bratton; Councilmen Gordon Myers, Larry McDevitt and Joe Pless; Corporation Counsel William F. Slawter; City Manager K. M. Michalove; and Associate City Manager/City Clerk William F. Wolcott,Jr.

Absent: None

INVOCATION

The invocation was given by Councilman Larry McDevitt.

APPROVAL OF THE MINUTES

1. Approval of the minutes of the August 23, 1983 meeting.

Upon motion of Vice-Mayor Price, seconded by Councilman McDevitt, the minutes of the August 23, 1983 meeting were unanimously approved as submitted.

RESOLUTION NO. 83-154 - RESOLUTION SUPPORTING THE 20TH ANNIVERSARY MOBILIZATION AND MARCH ON WASHINGTON, D. C., COMMEMORATING THE 1963 MARCH ON WASHINGTON, D. C., WITH A RALLY AT THE LINCOLN MEMORIAL ON AUGUST 27, 1983, FOR JOBS, PEACE, AND FREEDOM

1a. Consideration was given to a resolution supporting the 20th Anniversary Mobilization and March on Washington, D. C., commemorating the 1963 March on Washington, D. C., with a rally at the Lincoln Memorial on August 27, 1983, for Jobs, Peace, and Freedom.

The City Manager read the resolution.

Upon motion of Vice-Mayor Price, seconded by Councilwoman Frank, Resolution No. 83-154 was unanimously adopted.

Mayor Trantham then presented a copy of the resolution to Leo Ferguson.

Complete text of Resolution No. 83-154 will be found in Resolution Book No. 14 at page 150

APPOINTMENTS TO THE TOURISM DEVELOPMENT AUTHORITY (Sandra L. Hickman, Herman Von-Treskow and William A. V. Cecil)

1 b. Corporation Counsel Slawter said pursuant to the adoption of the bill to allow counties to levy a room occupancy and tourism development tax, the Asheville City Council appoints one hotel/motel owner or operator with more than one hundred rental units; one hotel/motel owner or operator with less than one hundred rental units; and one individual at large interested in the tourist development and does not own or operate a hotel, motel, or other taxable tourist accommodation. He said there were contradicting provisions as to the length of terms of the appointments. However, he felt the appointment with more than one hundred units would be appointed for three (3) years; less than one hundred units appointed for two (2) years; and the member at large interested in tourist development appointed for a one (1) year term.

RESOLUTION NO. 83-153 - RESOLUTION AUTHORIZING AMENDMENT TO SERVICE MAINTENANCE AGREEMENT CONTRACT FOR TWO-WAY RADIO SYSTEM

Consideration was given to a resolution authorizing amendment to service maintenance agreement contract for two-way radio system.

The City Manager read the resolution stating that this amendment will allow the City of Asheville to contract with Communication Services, Inc. to provide the necessary services required to relocate the Peach Knob facility under an existing contract for service.

Upon motion of Councilwoman Frank, seconded by Vice-Mayor Price, Resolution No. 83-153 was unanimously adopted.

Complete text of Resolution No. 83-153 will be found in Resolution Book No. 14 at page 149

DECISION MADE TO KEEP RECREATION PARK SWIMMING POOL OPEN UNTIL LABOR DAY

After a brief discussion relative to the high temperatures recently, the City Manager announced that the Recreation Park Pool will open at 1:00 p. m., beginning Wednesday, August 24, 1983 until Labor Day. He said this action is being taken because the City School Systems are closing schools at 1:00 p. m. each day until the high temperatures drop.

SCHEDULING PUBLIC HEARING - AMENDING HISTORIC RESOURCES COMMISSION MEMBERSHIP

Councilman McDevitt moved to schedule a public hearing relative to amending the Historic Resources Commission ordinance increasing the membership from six (6) to seven (7) members for September 6, 1983. This motion was seconded by Vice-Mayor Price and carried unanimously.

RALPH BISHOP - REMARKS RELATIVE TO POLICE DEPARTMENT

Ralph Bishop again made comments to members of Council relative to the Police Department.

ADJOURNMENT

Upon motion, the meeting adjourned at 4:50 p. m.

Ray M. Tennyson
MAYOR

William J. Bolester
CITY CLERK

Mayor Trantham said he was sure there are other candidates in the City of Asheville well qualified to serve on the Authority. He said he felt it was very important for the Authority to get off on a good start. He said the Biltmore House and Grove Park Inn has spent many dollars on advertising which has benefited the City of Asheville. He said he felt this to be one of the most important appointments Council could make for the future of the City of Asheville.

Councilwoman Frank also disagreed with Councilman Pless.

Councilman Myers said "the majority's ruled and I think that at this point in time the most important consideration is that we move forward in a positive attitude and an attitude of cooperation between the city, county officials and the Chamber of Commerce. It's very important that this group be given the full cooperation of all the city, the county, and civic leaders to insure that the room tax works for the City of Asheville."

Mayor Trantham told Councilman Myers he appreciated his comments.

The above appointments were made with the understanding that Mr. William A. V. Cecil would serve for a one (1) year term; Sandra L. Hickman for a three (3) year term; and Mr. Herman Von Treskow for a two (2) year term.

PUBLIC HEARING - REZONING PROPERTY IN THE OAKLEY DOGWOOD DRIVE AREA

2. A public hearing was held relative to rezoning property in the Oakley Dogwood Drive Area.

Mayor Trantham opened the public hearing at 4:35 p. m.

The City Manager presented the notice to the public setting the time and date for the public hearing.

Sonya Luckadoo, from the Planning Department, said the Planning and Zoning Commission originally received a petition from the residents of the Oakley Dogwood Drive area in May to rezone property from R-5 to R-2 Residential District. She said the Planning and Zoning Commission heard the rezoning issue on July 13 at which time an additional petition was received from residents of the area requesting additional property to be rezoned. She said the Asheville Planning and Zoning Commission at a called meeting held July 27, 1983 considered the request of Mr. Emmett Goldsmith et al that an area south of I-40, west of the Blue Ridge Parkway, north of Onteora Boulevard and east of the City Limit Line and the Southern Railway be rezoned from R-5 Residential District to R-2 Residential District. After review and discussion, the Commission voted to recommend to City Council that a portion of this area be rezoned from R-5 Residential District to R-3 Residential District, as follows:

"Bounded on the west by Asheville City Limit line along Southern Railroad; bounded on the south by the southern right-of-way margin of Roberts Road, Oakview Road and Loomis Avenue to the western property lines of Lots 180, 142, 140, and 136 of Ward 13, Sheet 19, and along the northern property line of said Lot 136 to Lot 27 of Ward 13, Sheet 20, and along the western and northern property line of Lot 27 and Lot 5 of Ward 13, Sheet 20 to Onteora Boulevard; bounded on the east by Onteora Boulevard to the Southern right-of-way margin of Interstate 40, and bounded on the north following said right-of-way to the Asheville City Limits and the point of Beginning."

Vice-Mayor Price noted that Council could go ahead and make the appointments and if necessary the terms of the members could be changed.

Councilwoman Frank moved that Mr. Herman Von Treskow be appointed to the Authority for the hotel/motel owner or operator with more than one hundred rental units. This motion was seconded by Councilman Myers and carried on a voice vote of 6-1, with Councilman Pless voting "no."

Vice-Mayor Price then moved that Sandra L. Hickman be appointed to the Authority for the hotel/motel owner or operator with less than one hundred rental units. This motion was seconded by Councilwoman Bratton and carried unanimously.

Vice-Mayor Price then moved that William A. V. Cecil be appointed to the Authority as the member at large interested in the tourist development and does not own or operate a hotel, motel, or other taxable tourist accommodation. This motion was seconded by Councilwoman Frank.

Councilman Pless moved that E. Ted Linn be appointed to the Authority as the member at large interested in the tourist development and does not own or operate a hotel, motel, or other taxable tourist accomodation. This motion was seconded by Councilman Myers.

Mayor Trantham then called for a roll call vote on the appointment of Mr. William A. V. Cecil to the Authority.

On a roll call vote, Mr. William A. V. Cecil was appointed to the Authority on a 5-2 vote, with Councilman Pless and Councilman Myers voting "no."

Councilman McDevitt said he felt there are many qualified and outstanding people in the City of Asheville to serve on the Authority.

Councilwoman Bratton said her main concern was the manner in which the Authority is to be set up. She said many segments of the community are not represented on the committee including women and blacks.

Councilwoman Frank said since the terms of the members are limited to two (2) years, Council will have an opportunity for others to serve on the committee. She said she felt the importance of the committee will grow.

Councilman Pless said "the people that were appointed today by the Ctiy Council were the recommendations of the Chamber of Commerce." He said the bill provided for appointments to be made by the city, county, and the Chamber of Commerce. He said "so your Asheville City Council actually did not make an appointment today." "They followed the Chamber of Commerce, and it makes me wonder who's running the city -- the Chamber of Commerce or the City Council."

Mayor Trantham said "Joe, I take offense at that. I vote for who I damn please."

Councilman McDevitt disagreed with Councilman Pless stating that he wasn't given any slate of people by the Chamber of Commerce. He said he supported Mr. Cecil because he was "from the largest tourist attraction in this area, the Biltmore Estate." He said he did receive a number of telephone calls from a wide variety - cross-section of the community relative to the appointments.

CLAIMS - MRS. SAM McGUIRE (PUBLIC WORKS)

LAWSUITS - BLANCHE BARTON

The City Manager presented a claim received from Mrs. Sam McGuire and a lawsuit in connection with Blanche Barton for bodily injury from a fall in mud due to water line break.

Mayor Trantham referred the claim and lawsuit to the Corporation Counsel for investigation and recommendation.

DISCUSSION RELATIVE TO KILLIAN ROAD BRIDGE - STANLEY MASTERS AND CLAUDE JONES

Mr. Stanley Masters and Mr. Claude Jones appeared before Council requesting that Council not build a new bridge on Killian Road. They said everybody has checked the bridge and said it was fine except the City staff. They said the residents in the area think the bridge is good enough for the area and they don't want to give up any more property for right-of-way.

The City Manager said the State had checked the bridge and has the bridge for replacement as a high priority item. He said the City received funding to replace four (4) bridges in the City of Asheville. He suggested that a full report relative to the Killian Road Bridge be prepared and given to Mr. Masters and Mr. Jones as well as to members of Council.

Mr. Masters presented a letter to members of Council relative to the property owners request for council members to personally inspect the road and bridge and to reconsider the decision to replace the bridge.

JOHN WALSH - COMMENTS RELATIVE TO CRIMINAL CONSPIRACY

Mr. John Walsh spoke to members of Council relative to criminal conspiracy.

RALPH BISHOP - COMMENTS RELATIVE TO LOTTERY SALES

Mr. Ralph Bishop spoke to members of Council relative to lottery sales.

ADJOURNMENT TO MEET AGAIN ON SEPTEMBER 1, 1983 AT 9:30 A.M.

Councilman McDevitt moved to adjourn the meeting to meet again on September 1, 1983 at 9:30 a.m. to meet with the City of Asheville Civil Service Board.

Ralph W. Trantham
MAYOR

Brenda F. Walcott
CITY CLERK

Ms. Luckadoo said Council has three alternatives; leave the area zoned as is R-5 Residential; rezone the entire area to R-2 Residential; or approve the recommendation of the Planning and Zoning Commission rezoning a portion of the area requested to be rezoned. She said the basis for Planning and Zoning's recommendation is that there is less concentration of mobile homes on single lots in the Oakley area.

Several residents in the Oakley Dogwood Drive area told members of Council they wanted the entire area rezoned to R-2 Residential District.

After discussion, Councilwoman Frank moved to rezone the entire area to R-3 Residential District. This motion was seconded by Councilman McDevitt.

Vice-Mayor Price offered a substitute motion to continue the public hearing until September 13, 1983 requesting that the Planning and Zoning Commission review the possiblity of excluding from the R-5 Residential District mobile home parks and to study the possibility of tightening up requirements for mobile home parks, particularly the size requirements and density of mobile homes. This motion was seconded by Councilman McDevitt and carried unanimously.

SALE OF DISPOSAL PARCELS - EAST RIVERSIDE RENEWAL PROJECT - PARCELS 105C & 105D, 121, 130

3. Consideration was given to a motion approving the sale of disposal parcels in the East Riverside Renewal Project.

The City Manager presented the recommendation of the Housing Authority as follows:

Parcel	Reuse	Location	Price	Bid	Redeveloper
105C & 105D	Residential	Bartlett	9,000	9,000	James & Fannie Waters
121	Residential	Ora Street	2,423	2,423	Christine M. Stepp
130	Residential	Adams Street	2,100	2,150	Robert & Judy Allen

All of the above will be purchased under the Dollar-A-Lot Program.

Councilman McDevitt moved to approve the sale of the disposal parcels 105C, 105D, 121, and 130 as recommended by the Housing Authority. This motion was seconded by Councilwoman Frank and carried unanimously.

SCHEDULING PUBLIC HEARING - AMENDMENT TO ZONING ORDINANCE SECTION 30-9-1 (D) (2)

4. Councilman McDevitt moved to schedule a public hearing relative to amending the Asheville Zoning Ordinance, Section 30-9-1 (D) (2) for September 13, 1983. This motion was seconded by Councilwoman Frank and carried unanimously.

AUTHORIZING PUBLIC NOTICE - LEASE AGREEMENT FOR ADVERTISING DISPLAYS AT CIVIC CENTER

Councilman McDevitt moved to authorize the City Clerk to give public notice that the City Council will consider a lease agreement for advertising displays in the Asheville Civic Center Arena Concourse Area on September 13, 1983. This motion was seconded by Councilwoman Bratton and carried unanimously.

Tuesday - September 6, 1983 - 4:00 p. m.

Regular Meeting

Present: Mayor Roy M. Trantham, Presiding; Vice-Mayor Norma T. Price; Councilwomen Mary Lloyd Frank and Wilhelmina Bratton; Councilmen Larry McDevitt and Joe Pless; Corporation Counsel William F. Slawter; City Manager K. M. Michalove; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Councilman Joe Pless (vacation)

INVOCATION

The invocation was given by Vice-Mayor Norma T. Price.

APPROVAL OF THE MINUTES

1. Approval of the minutes of the August 30, 1983 meeting.

Councilwoman Frank requested that the minutes be amended by changing her statement relative to the terms of the members of the Tourism Development Authority to two (2) terms rather than two (2) years. Also to correct a typographical error on the last page.

Upon motion of Councilwoman Frank, seconded by Councilman McDevitt, the minutes of the August 30, 1983 meeting were unanimously approved as amended.

PROCLAMATION - WESTERN ALLIANCE FUN DAY - SEPTEMBER 10, 1983

Mayor Trantham proclaimed September 10, 1983 as Western Alliance Fun Day.

Mayor Trantham presented the proclamation to Ms. Bernadette Thompson and Mr. Paul Godfrey.

RESOLUTION NO. 83-155 - RESOLUTION OF APPRECIATION AND COMMENDATION TO PAUL M. DUTCHER

2. Consideration was given to a resolution of appreciation and commendation to Paul M. Dutcher.

The City Manager read the resolution stating that Paul Dutcher served the citizens of Asheville as a dedicated city employee since March 1, 1955 and on June 30, 1983 he retired from the City of Asheville.

Upon motion of Vice-Mayor Price, seconded by Councilwoman Frank, Resolution No. 83-155 was unanimously adopted.

Complete text of Resolution No. 83-155 will be found in Resolution Book No. 14 at page 151

Continuation of Adjourned Meeting from August 30, 1983

Thursday - September 1, 1983 9:30 a.m.

Present: Mayor Roy M. Trantham, Presiding; Vice-Mayor Norma T. Price; Councilwomen Mary Lloyd Frank and Wilhelmina Bratton; Councilman Pless; Patsy Brison, Legal Analyst; Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Councilman Larry McDevitt and Councilman Gordon Myers.

The meeting was called to order by Mayor Trantham in the City Council Chambers at 9:30 a. m. Motion by Councilwoman Frank, seconded by Vice-Mayor Price to go into executive session on a personnel matter. The motion was adopted unanimously.

The meeting was then moved to the Fourth Floor Training Room in the City Building.

Attendance: Mayor Roy M. Trantham, Vice-Mayor Norma T. Price, Councilwoman Wilhelmina Bratton, Councilman Joe Pless, Councilwoman Mary Lloyd Frank, William DeBruhl, Director of Water and Sewer Services, Sam Graves, Director of Management Services, Thomas C. Posey, Civil Service Board member; Raymond Stepp, Civil Service Board member; Wade Thomas, Civil Service Board member, Sheila Fellerath, Civil Service Board member; City Manager K. M. Michalove, Patsy Brison, Leal Analyst.

After approximately one hour the Civil Service Board and William DeBruhl were excused and after approximately another thirty minutes the Council opened the meeting to a regular session.

Ken Michalove, City Manager, recommended that the City appeal the August 24, 1983 decision of the Civil Service Board relating to David G. McMahan and Bobby G. Metcalf.

Vice-Mayor Price moved to uphold that recommendation and to appeal to Superior Court based on her conclusion that these individuals had no right of appealing their grievance to the Civil Service Board. Motion seconded by Councilwoman Frank. Motion was defeated on a vote of 3 to 2 with Mayor Trantham, Councilwoman Bratton, and Councilman Pless casting the dissenting votes.

Upon motion of Councilwoman Frank, seconded by Councilman Pless the meeting adjourned.

Roy M. Trantham
MAYOR

William F. Wolcott
CITY CLERK

Mr. Emrick said Mr. Walter Alexander with Alexander Investments presented the City staff with a letter today dedicating two (2) fifty (50') foot right-of-ways on Windswept Drive down to Ardmion and Ardmion to new Pine Street for the access road to the development, with the understanding that the City would pave this access road.

Attorney Jack Stevens, representing six (6) property owners in the Windswept Drive area said their major concerns were the provision for adequate access and erosion control. He requested that the City restrict construction traffic on Windswept Drive during completion of the project. He also suggested that the access road be constructed to an all-weather condition.

Mr. Bill Moore, President of the Kenilworth Residents Association said at a meeting of the association the residents opposed this development unless adequate access is provided to the project.

Mr. Doug Bebber, developer of the proposed project, spoke in support of the project stating that a lot of time has been spent on the project to work out an adequate access road. He said he felt this development would be a positive step for the City. He said they are willing to comply with the stipulations of the Planning and Zoning Commission.

Mr. Walter Alexander said the access road could be useable for construction traffic within a few days. He suggested that 20' of stone be put down to apply to future paving.

Councilwoman Bratton suggested that caution signs be placed on Windswept Drive to detour construction traffic to an alternate route.

Mr. Harley Dunn, of 200 Windswept Drive, said it was unsafe to use Windswept Drive for construction traffic.

After discussion, Councilman McDevitt tentatively approved the site plan of the "Windswept View" condominiums subject to a 16' minimum paved access road being provided according to plans submitted to Council - from Windswept Drive to Ardmion and Ardmion to new Pine Street; to the granting of a fifty (50') foot right-of-way down the full length of the road described - from Windswept Drive to new Pine Street; to grading to be provided and doneby the developer or property owner - not at city expense - according to state specifications; to the developer furnishing the City with satisfactory evidence of financing necessary to complete the project; to appropriate informational signs being placed on Windswept Drive; to the City using funds to pave Windswept Drive to Ardmion and in front of project and the developer providing the difference. Said motion to be subject to the City Attorney drawing up the necessary documents with the developers and Mr. Alexander and confirming the stipulations with the property owners in the area and to be presented for final approval at next week's meeting. This motion was seconded by Councilwoman Bratton and carried unanimously.

RESOLUTION NO. 83-156 - RESOLUTION COMMENDING THE ASHEVILLE HIGH SCHOOL MARINE CORPS JUNIOR RESERVE OFFICER TRAINING CORPS (MCJROTC) UNIT FOR BEING NAMED WINNER OF THE 1982-83 MARINE CORPS RESERVE OFFICERS' ASSOCIATION (MCROA) BEST UNIT AWARD

3. Consideration was given to a resolution commending the Asheville High School Marine Corps Junior Reserve Officer Training Corps (MCJROTC) Unit for being named winner of the 1982-83 Marine Corps Reserve Officers' Association (MCROA) Best Unit Award.

The City Manager read the resolution stating that the Asheville High School Marine Corps Junior Reserve Officer Traning Corps has been nationally recognized as the Best MCJROTC Unit in the United States by being awarded the 1982-83 MCROA Best Unit Award.

Upon motion of Vice-Mayor Price, seconded by Councilwoman Bratton, Resolution No. 83-156 was unanimously adopted.

Complete text of Resolution No. 83-156 will be found in Resolution Book No. 14 at page 152.

PUBLIC HEARING - SITE PLAN OF "WINDSWEPT VIEW" CONDOMINIUMS - WINDSWEPT DRIVE

4. A public hearing was held relative to the site plan of "Windswept View" condominiums to be located on Windswept Drive.

Mayor Trantham opened the public hearing at 4:28 p. m.

The City Manager presented the notice to the public setting the time and date for the public hearing.

For informational purposes the City Manager stated that Wayside Road, near the proposed project, is scheduled on the recent paving list.

Verl Emrick, Director of Planning, introduced Scott Fowler who is working on a research project on the workings of local government.

Verl Emrick, Director of Planning, said the proposed project of "Windswept View" condominiums to be located on Windswept Drive will consist of 76 units in three phases. He said the Asheville Planning and Zoning Commission reviewed the site plan on August 3, 1983. The site plan was prepared by Roger Lyda, P. E., for Doug Bebber and Ellen Goldstein, Developers, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion of the plan, the Commission voted to recommend approval of Phase I of this project to City Council provided there is a 16' paved access to a major thoroughfare of like width, and provided it meets the City's Erosion Control Ordinance. (This approval would grant a 10' setback variance in front of Building #2).

Mr. Emrick said the developers are purchasing the land for the development from Alexander Investments. He said since Planning and Zoning's approval the Planning Staff and the developers have discussed using alternate routes to the development and for construction traffic.

RESOLUTION NO. 83-157 - RESOLUTION APPOINTING MEMBERS TO THE ASHEVILLE-BUNCOMBE HISTORIC RESOURCES COMMISSION (Carroll Hughes - Verne Rhoades - Johnny F. Baxter)

6. Consideration was given to a resolution appointing members to the Asheville-Buncombe Historic Resources Commission.

The City Manager read the resolution stating that this would reappoint Mr. Carroll Hughes and Mr. Verne Rhoades and appoint Johnny F. Baxter as members of the Asheville-Buncombe Historic Resources Commission for a term of three (3) years.

Upon motion of Councilwoman Frank, seconded by Councilwoman Bratton, Resolution No. 83-157 was unanimously adopted.

Complete text of Resolution No. 83-157 will be found in Resolution Book No. 14 at page 153.

RESOLUTION NO. 83-158 - RESOLUTION APPOINTING MEMBERS TO THE ASHEVILLE TREE COMMISSION FOR THE CITY OF ASHEVILLE (Joseph R. Kowal - Del Thorsen - Claude B. Haynes)

7. Consideration was given to a resolution appointing members to the Asheville Tree Commission for the City of Asheville.

The City Manager read the resolution stating that this would reappoint Mr. Joseph R. Kowal and Del Thorsen and appoint Mr. Claude B. Haynes, Jr. as members of the Asheville Tree Commission to serve for a term of three (3) years.

Upon motion of Vice-Mayor Price, seconded by Councilwoman Frank, Resolution No. 83-158 was unanimously adopted.

Complete text of Resolution No. 83-158 will be found in Resolution Book No. 14 at page 154.

CITY MANAGER LETTER TO MAYOR AND MEMBERS OF COUNCIL - DAVID G. McMAHAN AND BOBBY G. METCALF

The City Manager requested that the following letter be made a part of the City Council minutes.

September 2, 1983

The Honorable Mayor and Members
of the Asheville City Council
City of Asheville
Asheville, North Carolina 28801

Dear Mayor and Members of City Council:

On August 24, 1983, the Civil Service Board voted in a split vote to immediately reinstate David G. McMahan and Bobby G. Metcalf to the positions of pipe fitter and motor equipment operator respectively, and that they each be given back pay and benefits from June 29, 1983, through August 24, 1983. This decision is attached hereto and made a part hereof. At this meeting, after their decision was rendered, I informed the Civil Service Board that I would not put these employees back to work but that I would discuss the matter with the City's Corporate Counsel.

PUBLIC HEARING -AMENDMENT TO ORDINANCE NO. 1109 - HISTORIC RESOURCES COMMISSION

ORDINANCE NO. 1393 -AN ORDINANCE AMENDING ORDINANCE NO. 1109 - "AN ORDINANCE CREATING THE HISTORIC RESOURCES COMMISSION OF ASHEVILLE AND BUNCOMBE COUNTY"

5. A public hearing was held relative to amending Ordinance No. 1109, known as "AN ORDINANCE CREATING THE HISTORIC RESOURCES COMMISSION OF ASHEVILLE AND BUNCOMBE COUNTY".

Mayor Trantham opened the public hearing at 5:35 p. m.

The City Manager presented the notice setting the time and date for the public hearing.

The City Manager said this amendment will increase the number of members appointed by Council from six (6) members to seven (7) members. He said the County is in the process of changing their ordinance to increase their membership to seven (7) members.

Mayor Trantham closed the public hearing at 5:37 p. m.

The City Manager said members of Council were furnished copies of the ordinance and it would not be read in its entirety unless there was a specific request to do so.

Councilman McDevitt moved for the adoption of Ordinance No. 1393. This motion was seconded by Councilman Myers.

On a roll call vote of 6-0, Ordinance No. 1393 passed on first reading.

Councilman McDevitt moved to suspend the rules and proceed to the second reading of Ordinance No. 1393. This motion was seconded by Vice-Mayor Price and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1393 passed on second reading.

Councilman McDevitt moved to suspend the rules and proceed to the third and final reading of Ordinance No. 1393. This motion was seconded by Vice-Mayor Price and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1393 passed on third and final reading.

Complete text of Ordinance No. 1393 will be found in Ordinance Book No. 10 at page 63.

STATE OF NORTH CAROLINA

COUNTY OF BUNCOMBE

CITY OF ASHEVILLE

BEFORE THE CIVIL SERVICE BOARD

IN THE MATTER OF THE EMPLOYMENT OF)
DAVID G. MCMAHAN AND BOBBY G.)
METCALF.)

DECISION

The appeals of David G. McMahan and Bobby G. Metcalf (hereinafter called "Appellants") came on for public hearing and was duly heard before the Civil Service Board of the City of Asheville (hereinafter called "Board") on August 24, 1983, at which time David G. McMahan was present and represented by counsel, Lamar Gudger and Bobby G. Metcalf was present and represented by counsel, John Shackelford. At said hearing, the City of Asheville was represented by Kenneth Michalove and Samuel Graves and it introduced evidence in support of the termination of Appellants effective June 28, 1983.

Based upon the evidence presented, the Board determines (by a vote of three for, one against) that David G. McMahan and Bobby G. Metcalf be immediately reinstated to the positions of Pipefitter and Motor Equipment Operator, respectively, and that they each be given back pay and benefits from June 28, 1983 through August 24, 1983.

This the 25 day of August, 1983.

ASHEVILLE CIVIL SERVICE BOARD

By: Thomas C. Ponty
Chairman

On August 30, 1983, Corporate Counsel and I recommended to the City Council that we appeal the decision of the Civil Service Board and deny employment to these two individuals based on the complaint attached hereto and made a part hereof.

The City Council continued the regular City Council Meeting of August 30 to September 1, 1983, in order to meet with the Civil Service Board. After the executive session meeting with the Civil Service Board, I again recommended that we appeal the decision of the Civil Service Board; however, the appeal was denied on a vote of 3 to 2. A copy of the minutes are attached hereto and made a part hereof.

Therefore, having no other practical recourse, I have employed David G. McMahan and Bobby G. Metcalf to jobs they never legally held based on the order of the Civil Service Board and the action of the City Council. The employment is effective September 1, 1983.

Therefore, for the public records, I request that this letter and the attachments be made a part of the City Council Minutes and Meeting of September 6, 1983.

Very truly yours,

K. M. Michalove
City Manager

KMM:msm
Attachments
1. Civil Service Board Decision dated 8/25/83
2. Complaint Order
3. Minutes of the City Council/Civil Service Board of 9/1/83

cc: David G. McMahan's Personnel File
Bobby G. Metcalf's Personnel File
Samuel N. Graves
William F. Slawter
Patsy Brison

Note Attachments on following pages of minutes.

8. That the Respondents were thereafter dismissed from their part-time employment on June 28, 1983, without having been promoted or transferred to the aforesaid positions of M.E.O. II., and Pipe Fitter.

9. That the hiring, firing and management of employees of the City of Asheville is governed by, among other items, the appropriate provisions of the City Charter of the City of Asheville, Chapter 757 of the 1953 Session Laws of the North Carolina General Assembly, as amended, entitled "Civil Service Law" and by the rules and regulations of the Civil Service Commission of the City of Asheville as adopted pursuant to the provisions of said "Civil Service Law."

10. That Section 19 of the City Charter of the City of Asheville, entitled "Appointment, Qualification, Term and Removal of Manager; Acting Manager" provides that the City Manager is the "chief executive officer" of the City.

11. Section 20 of the City Charter of the City of Asheville entitled "Responsibility of Manager to Council; Appointment and Removal of Officers and Employees Generally" provides that the City Manager "shall have the power to appoint and remove all officers and employees in the administrative service of the City."

12. That the City Manager of the City of Asheville has a long-standing policy requirement that all employees of the Petitioner City, before entering into the classified service, be approved by the Department Head, the Personnel Director and the City Manager on a form known as "PD-1." That a copy of said form with regard to the promotion and transfer of the Respondent Metcalf is attached hereto and labeled "Exhibit A." That a copy of said form with regard to the promotion and transfer of the Respondent McMahan is attached hereto and marked "Exhibit B." That said documents bear the notations of the City Manger disapproving said promotions and transfers on June 23, 1983.

13. That the Respondents thereby never became regular "permanent" or ".02" employees of the Petitioner but rather remained part-time.

14. Whatever the classification of the Respondents, Rule 12, entitled "Probation" of the rules and regulations of the Civil Service Commission of the City of Asheville provides that "no appointment, employment or promotion in any position in the classified service shall be deemed complete until after the expiration of a period of twelve (12) months probationary service during which time the appointing authority may terminate the services or enforce demotion of any person employed in such probationary status provided he or she is unfit or unsatisfactory for service. Persons dismissed during the probationary period shall not be entitled to a hearing or trial before the Civil Service Board..."

15. That the Respondents herein were thereby not entitled to a hearing before the Civil Service Board.

16. That on August 24, 1983, the Civil Service Board of the City of Asheville convened and conducted a hearing in connection with grievances filed by the Respondents herein resulting from the circumstances set forth hereinbefore. That the Civil Service Board was without authority to conduct said hearing and the resulting order issued therefrom was thereby void since neither Respondent had then been employed by the City for twelve (12) months.

STATE OF NORTH CAROLINA

COUNTY OF BUNCOMBE

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
FILE NO:

IN THE MATTER OF: THE APPEAL OF THE CITY OF ASHEVILLE,
Petitioner,

-vs-

DAVID J. MCMAHAN AND BOBBY G. METCALF,
Respondents.

COMPLAINT FOR DECLARATORY RELIEF
APPEAL AND PETITION FOR TRIAL DE NOVO OF DECISION OF ASHEVILLE CIVIL SERVICE BOARD
NON-JURY

FIRST CAUSE OF ACTION

The Petitioner, City of Asheville, herewith seeks a Declaratory Judgment as to the status of the Respondents herein as affected by the applicable Civil Service laws of the State of North Carolina and the City of Asheville and the authority of the Civil Service Board of the City of Asheville to hear the grievances of the Respondents herein on August 24, 1983, and as a basis therefore shows unto the Court as follows:

1. That the Petitioner, City of Asheville, is a municipal corporation of the State of North Carolina.

2. That the Respondents are citizens and residents of Buncombe County, North Carolina.

3. That the Respondents were formerly employed by the Petitioner in the Water Department of the City of Asheville, but that both Respondents were terminated from said employment, for cause, pursuant to the rules and regulations of the Civil Service Commission of the City of Asheville. That the employment of the Respondent, Metcalf, was terminated on June 8, 1979, and the employment of the Respondent, McMahan, was terminated on July 27, 1979.

4. That the Respondents were subsequently rehired by the Petitioner, City of Asheville in a classification known as ".03" which consists of temporary, seasonal, or part-time employees. That the part-time employment of the Respondent, Metcalf began on August 26, 1982, and the said part-time employment of the Respondent, McMahan began on September 7, 1982.

5. That each of said Respondents was subsequently recommended for promotion and transfer by supervisory personnel within the Water Department of the City of Asheville. That the Respondent Metcalf was recommended for the position of M.E.O. II., and the Respondent McMahan was recommended for the position of Pipe Fitter.

6. That the transfer and promotion of said Respondents was never effected, the City Manager of the City of Asheville having disapproved said promotions and transfers on June 23, 1983.

7. That due to clerical error within the Water Department and an unauthorized processing of paper work by personnel within the Water Department, the Respondents were placed on the ".02" payroll of the Petitioner within said positions of promotion and transfer without ever having been so promoted or transferred.

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CITY OF ASHEVILLE

PAYROLL/PERSONNEL ACTION REQUEST

(Please Type)

AD	ACN

er & Sewer Maintenance — Budget Code 30-730-159 — Date Submitted 5-18-83

Bobby Metcalf — Position Title M.E.O. II — Effective Date 5-16-83

ss 72 Bradley Street — Home Phone — Sex* M Race* W

ity Asheville, NC — SSN 246-58-2443 — Review Date: 11/16/83

NEW EMPLOYEE

Type of Appointment:
- ___ Administrative (.02)
- ___ Certified (.02)
- ___ Temporary (.02)
- ___ Part Time (.03)

Rate of Pay:
- Pay Grade ___ Step ___
- Biweekly Rate
- Weekly Rate
- Other

Position Control Information:
- Control Number
- Name of Previous Incumbent
- Reason for Vacancy

PRESENT EMPLOYEE

Type of Action:
- ___ Promotion
- ✓ Transfer
- ___ Annual Increase
- ___ Merit Increase
- ___ Demotion

	From:	To:
Activity	870	926
Pay Grade/Step	19-A	24-A
Rate of Pay	3.97	5.05
Position Title	Laborer II (Tem)	M.E.O. II
Budget Code	30-730-159	30-730-159
Control No. Temporary		4738

PRESENT EMPLOYEE

Removal From Payroll:
- ___ Retirement
- ___ Death
- ___ Reduction in Force
- ___ Dismissal (Explain)
- ___ Resignation (Explain)

Credit Union Clearance? Yes ___ No ___

___ Other (Explain

Mr. Metcalf has filled a temporary position with the Patch Paving section since 8-26-82.

Date of last day worked:

Deductions:

Please add ___ change ___ stop ___ deductions for the above named employee on the effective date

Explain:

COMMENTS AND/OR APPROVALS

Requesting Official:

Comments: Mr. Metcalf is listed on the eligible list for M.E.O. II.

Signature — Date 5-18-83

Department Head:

Comments:

Signature — Date

Personnel Director:

Recommend ___ Approval ___ Disapproval

Initials ___ Date 4/20/83

City Manager: Approval ___ Disapproval

Initials 11.16.83 Date 6-23-83

Payroll Records Adjusted:

Initials ___ Date ___

Payroll Clerk

Payroll No. ___

*For EEC-4 Form Reporting Purposes.

17. That the decision of the Civil Service Board directs that the Respondents be "reinstated" to positions of employment which they never officially held.

The Petitioner therefore prays on its First Cause of Action for a Declaratory Judgment that the Civil Service Board of the City of Asheville was without authority to conduct the aforesaid hearings on August 24, 1983, with regard to the Respondents herein and that the rulings of the Civil Service Board in connection with said Respondents are void.

SECOND CAUSE OF ACTION

In the event the Court should not declare the Civil Service Board to have been without authority to conduct the hearings on August 24, 1983, upon the grievances filed by the Respondents herein and the rulings entered by the Board to therefore have no effect, the Petitioner then Petitions the Court for a trial de novo and in support thereof herewith incorporates by reference all allegations contained in the First Cause of Action as if set forth in full herein.

WHEREFORE, Petitioner Prays the Court as follows:

1. For a Declaratory Judgment invalidating the proceedings of the Civil Service Board of the City of Asheville of August 24, 1983, upon the grievances filed by the Respondents herein; or in the alternative,

2. For a trial de novo upon said grievances filed by the Respondents herein.

3. For such other and further relief as to the Court may seem just and proper.

This the _____ day of _____, 1983.

WILLIAM F. SLAWTER, ATTORNEY FOR THE CITY OF ASHEVILLE
Post Office Box 7661
Asheville, North Carolina 28807

Tuesday - August 30, 1983 - 4:00 p. m.

Regular Meeting

Present: Mayor Roy M. Trantham, Presiding; Vice-Mayor Norma T. Price; Councilwomen Mary Lloyd Frank and Wilhelmina Bratton; Councilmen Gordon Myers, Larry McDevitt and Joe Pless; Corporation Counsel William F. Slawter; City Manager K. M. Michalove; and Associate City Manager/City Clerk William F. Wolcott,Jr.

Absent: None

INVOCATION

The invocation was given by Councilman Larry McDevitt.

APPROVAL OF THE MINUTES

1. Approval of the minutes of the August 23, 1983 meeting.

Upon motion of Vice-Mayor Price, seconded by Councilman McDevitt, the minutes of the August 23, 1983 meeting were unanimously approved as submitted.

RESOLUTION NO. 83-154 - RESOLUTION SUPPORTING THE 20TH ANNIVERSARY MOBILIZATION AND MARCH ON WASHINGTON, D. C., COMMEMORATING THE 1963 MARCH ON WASHINGTON, D. C., WITH A RALLY AT THE LINCOLN MEMORIAL ON AUGUST 27, 1983, FOR JOBS, PEACE, AND FREEDOM

1a. Consideration was given to a resolution supporting the 20th Anniversary Mobilization and March on Washington, D. C., commemorating the 1963 March on Washington, D. C., with a rally at the Lincoln Memorial on August 27, 1983, for Jobs, Peace, and Freedom.

The City Manager read the resolution.

Upon motion of Vice-Mayor Price, seconded by Councilwoman Frank, Resolution No. 83-154 was unanimously adopted.

Mayor Trantham then presented a copy of the resolution to Leo Ferguson.

Complete text of Resolution No. 83-154 will be found in Resolution Book No. 14 at page 127.

APPOINTMENTS TO THE TOURISM DEVELOPMENT AUTHORITY (Sandra L. Hickman, Herman Von-Treskow and William A. V. Cecil)

1 b. Corporation Counsel Slawter said pursuant to the adoption of the bill to allow counties to levy a room occupancy and tourism development tax, the Asheville City Council appoints one hotel/motel owner or operator with more than one hundred rental units; one hotel/motel owner or operator with less than one hundred rental units; and one individual at large interested in the tourist development and does not own or operate a hotel, motel, or other taxable tourist accommodation. He said there were contradicting provisions as to the length of terms of the appointments. However, he felt the appointment with more than one hundred units would be appointed for three (3) years; less than one hundred units appointed for two (2) years; and the member at large interested in tourist development appointed for a one (1) year term.

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CITY OF ASHEVILLE
PAYROLL/PERSONNEL ACTION REQUEST
(Please Type)

FD USE ONLY: AB | ACN | NA

Water & Sewer Maintenance

[redacted] David McMahan

Address 93 Pearson Drive

City Asheville, NC

Budget Code 30-730-155

Position Title Pipefitter

Home Phone

SSN 244-84-8868

Date Submitted 5-19-83

Effective Date 5-16-83

Sex* M Race* W

Review: 11/16/82

NEW EMPLOYEE

Type of Appointment:
- ___ Administrative (.02)
- ___ Certified (.02)
- ___ Temporary (.02)
- ___ Part Time (.03)

Rate of Pay:
- Pay Grade ___ Step ___
- Biweekly Rate
- Weekly Rate
- Other

Position Control Information:
- Control Number
- Name of Previous Incumbent
- Reason for Vacancy

PRESENT EMPLOYEE

Type of Action:
- X Promotion
- X Transfer
- ___ Annual Increase
- ___ Merit Increase
- ___ Demotion

	From:	To:
Activity	835	910
Pay Grade/Step	19-A	23-A
Rate of Pay	3.97	4.81
Position Title	Laborer II (Temp)	Pipefitter
Budget Code	30-730357	30-730-155
Control No.	Temporary Position	5579

TERMINATION

Removal From Payroll:
- ___ Retirement
- ___ Death
- ___ Reduction in Force
- ___ Dismissal (Explain)
- ___ Resignation (Explain)
- ___ Other (Explain

NOTE: Mr. McMahan has filled a temporary position since September, 1982. The temporary position was with the Patch/Paving Section

Credit Union Clearance? Yes ___ No ___

Date of last day worked:

Deductions:

Please add ___ change ___ stop ___ deductions for the above named employee on the effective date.

Explain:

Requesting Official:

Comments: To fill vacant pipefitter position in county water section. Mr. McMahan is listed on the Civil Service eligilbe list for pipefitter

Signature [signature] Date 5-17-83

Department Head: [signature] Date 5/18/83

Comments:

Personnel Director:

Recommend ___ Approval ___ Disapproval ___

Initials [signature] Date 5/24/83

City Manager: Approval ___ Disapproval ___

Initials [signature] Date 6/23/83

Payroll Records Adjusted:

Initials ___ Date ___

Payroll Clerk

Payroll No. ___

Mayor Trantham said he was sure there are other candidates in the City of Asheville well qualified to serve on the Authority. He said he felt it was very important for the Authority to get off on a good start. He said the Biltmore House and Grove Park Inn has spent many dollars on advertising which has benefited the City of Asheville. He said he felt this to be one of the most important appointments Council could make for the future of the City of Asheville.

Councilwoman Frank also disagreed with Councilman Pless.

Councilman Myers said "the majority's ruled and I think that at this point in time the most important consideration is that we move forward in a positive attitude and an attitude of cooperation between the city, county officials and the Chamber of Commerce. It's very important that this group be given the full cooperation of all the city, the county, and civic leaders to insure that the room tax works for the City of Asheville."

Mayor Trantham told Councilman Myers he appreciated his comments.

The above appointments were made with the understanding that Mr. William A. V. Cecil would serve for a one (1) year term; Sandra L. Hickman for a three (3) year term; and Mr. Herman Von Treskow for a two (2) year term.

PUBLIC HEARING - REZONING PROPERTY IN THE OAKLEY DOGWOOD DRIVE AREA

2. A public hearing was held relative to rezoning property in the Oakley Dogwood Drive Area.

Mayor Trantham opened the public hearing at 4:35 p. m.

The City Manager presented the notice to the public setting the time and date for the public hearing.

Sonya Luckadoo, from the Planning Department, said the Planning and Zoning Commission originally received a petition from the residents of the Oakley Dogwood Drive area in May to rezone property from R-5 to R-2 Residential District. She said the Planning and Zoning Commission heard the rezoning issue on July 13 at which time an additional petition was received from residents of the area requesting additional property to be rezoned. She said the Asheville Planning and Zoning Commission at a called meeting held July 27, 1983 considered the request of Mr. Emmett Goldsmith et al that an area south of I-40, west of the Blue Ridge Parkway, north of Onteora Boulevard and east of the City Limit Line and the Southern Railway be rezoned from R-5 Residential District to R-2 Residential District. After review and discussion, the Commission voted to recommend to City Council that a portion of this area be rezoned from R-5 Residential District to R-3 Residential District, as follows:

"Bounded on the west by Asheville City Limit line along Southern Railroad; bounded on the south by the southern right-of-way margin of Roberts Road, Oakview Road and Loomis Avenue to the western property lines of Lots 180, 142, 140, and 136 of Ward 13, Sheet 19, and along the northern property line of said Lot 136 to Lot 27 of Ward 13, Sheet 20, and along the western and northern property line of Lot 27 and Lot 5 of Ward 13, Sheet 20 to Onteora Boulevard; bounded on the east by Onteora Boulevard to the Southern right-of-way margin of Interstate 40, and bounded on the north following said right-of-way to the Asheville City Limits and the point of Beginning."

Vice-Mayor Price noted that Council could go ahead and make the appointments and if necessary the terms of the members could be changed.

Councilwoman Frank moved that Mr. Herman Von Treskow be appointed to the Authority for the hotel/motel owner or operator with more than one hundred rental units. This motion was seconded by Councilman Myers and carried on a voice vote of 6-1, with Councilman Pless voting "no."

Vice-Mayor Price then moved that Sandra L. Hickman be appointed to the Authority for the hotel/motel owner or operator with less than one hundred rental units. This motion was seconded by Councilwoman Bratton and carried unanimously.

Vice-Mayor Price then moved that William A. V. Cecil be appointed to the Authority as the member at large interested in the tourist development and does not own or operate a hotel, motel, or other taxable tourist accommodation. This motion was seconded by Councilwoman Frank.

Councilman Pless moved that E. Ted Linn be appointed to the Authority as the member at large interested in the tourist development and does not own or operate a hotel, motel, or other taxable tourist accomodation. This motion was seconded by Councilman Myers.

Mayor Trantham then called for a roll call vote on the appointment of Mr. William A. V. Cecil to the Authority.

On a roll call vote, Mr. William A. V. Cecil was appointed to the Authority on a 5-2 vote, with Councilman Pless and Councilman Myers voting "no."

Councilman McDevitt said he felt there are many qualified and outstanding people in the City of Asheville to serve on the Authority.

Councilwoman Bratton said her main concern was the manner in which the Authority is to be set up. She said many segments of the community are not represented on the committee including women and blacks.

Councilwoman Frank said since the terms of the members are limited to two (2) years, Council will have an opportunity for others to serve on the committee. She said she felt the importance of the committee will grow.

Councilman Pless said "the people that were appointed today by the Ctiy Council were the recommendations of the Chamber of Commerce." He said the bill provided for appointments to be made by the city, county, and the Chamber of Commerce. He said "so your Asheville City Council actually did not make an appointment today." "They followed the Chamber of Commerce, and it makes me wonder who's running the city -- the Chamber of Commerce or the City Council."

Mayor Trantham said "Joe, I take offense at that. I vote for who I damn please

Councilman McDevitt disagreed with Councilman Pless stating that he wasn't given any slate of people by the Chamber of Commerce. He said he supported Mr. Cecil because he was "from the largest tourist attraction in this area, the Biltmore Estate." He said he did receive a number of telephone calls from a wide variety - cross-section of the community relative to the appointments.

CLAIMS - MRS. SAN McGUIRE (PUBLIC WORKS)

LAWSUITS - BLANCHE BARTON

The City Manager presented a claim received from Mrs. Sam McGuire and a lawsuit in connection with Blanche Barton for bodily injury from a fall in mud due to water line break.

Mayor Trantham referred the claim and lawsuit to the Corporation Counsel for investigation and recommendation.

DISCUSSION RELATIVE TO KILLIAN ROAD BRIDGE - STANLEY MASTERS AND CLAUDE JONES

Mr. Stanley Masters and Mr. Claude Jones appeared before Council requesting that Council not build a new bridge on Killian Road. They said everybody has checked the bridge and said it was fine except the City staff. They said the residents in the area think the bridge is good enough for the area and they don't want to give up any more property for right-of-way.

The City Manager said the State had checked the bridge and has the bridge for replacement as a high priority item. He said the City received funding to replace four (4) bridges in the City of Asheville. He suggested that a full report relative to the Killian Road Bridge be prepared and given to Mr. Masters and Mr. Jones as well as to members of Council.

Mr. Masters presented a letter to members of Council relative to the property owners request for council members to personally inspect the road and bridge and to reconsider the decision to replace the bridge.

JOHN WALSH - COMMENTS RELATIVE TO CRIMINAL CONSPIRACY

Mr. John Walsh spoke to members of Council relative to criminal conspiracy.

RALPH BISHOP - COMMENTS RELATIVE TO LOTTERY SALES

Mr. Ralph Bishop spoke to members of Council relative to lottery sales.

ADJOURNMENT TO MEET AGAIN ON SEPTEMBER 1, 1983 AT 9:30 A.M.

Councilman McDevitt moved to adjourn the meeting to meet again on September 1, 1983 at 9:30 a.m. to meet with the City of Asheville Civil Service Board.

Ray W. Trantham
MAYOR

Thelma L. Barnett
CITY CLERK

Ms. Luckadoo said Council has three alternatives; leave the area zoned as is R-5 Residential; rezone the entire area to R-2 Residential; or approve the recommendation of the Planning and Zoning Commission rezoning a portion of the area requested to be rezoned. She said the basis for Planning and Zoning's recommendation is that there is less concentration of mobile homes on single lots in the Oakley area.

Several residents in the Oakley Dogwood Drive area told members of Council they wanted the entire area rezoned to R-2 Residential District.

After discussion, Councilwoman Frank moved to rezone the entire area to R-3 Residential District. This motion was seconded by Councilman McDevitt.

Vice-Mayor Price offered a substitute motion to continue the public hearing until September 13, 1983 requesting that the Planning and Zoning Commission review the possiblity of excluding from the R-5 Residential District mobile home parks and to study the possibility of tightening up requirements for mobile home parks, particularly the size requirements and density of mobile homes. This motion was seconded by Councilman McDevitt and carried unanimously.

SALE OF DISPOSAL PARCELS - EAST RIVERSIDE RENEWAL PROJECT - PARCELS 105C & 105D, 121, 130

3. Consideration was given to a motion approving the sale of disposal parcels in the East Riverside Renewal Project.

The City Manager presented the recommendation of the Housing Authority as follows:

Parcel	Reuse	Location	Price	Bid	Redeveloper
105C & 105D	Residential	Bartlett	9,000	9,000	James & Fannie Waters
121	Residential	Ora Street	2,423	2,423	Christine M. Stepp
130	Residential	Adams Street	2,100	2,150	Robert & Judy Allen

All of the above will be purchased under the Dollar-A-Lot Program.

Councilman McDevitt moved to approve the sale of the disposal parcels 105C, 105D, 121, and 130 as recommended by the Housing Authority. This motion was seconded by Councilwoman Frank and carried unanimously.

SCHEDULING PUBLIC HEARING - AMENDMENT TO ZONING ORDINANCE SECTION 30-9-1 (D) (2)

4. Councilman McDevitt moved to schedule a public hearing relative to amending the Asheville Zoning Ordinance, Section 30-9-1 (D) (2) for September 13, 1983. This motion was seconded by Councilwoman Frank and carried unanimously.

AUTHORIZING PUBLIC NOTICE - LEASE AGREEMENT FOR ADVERTISING DISPLAYS AT CIVIC CENTER

Councilman McDevitt moved to authorize the City Clerk to give public notice that the City Council will consider a lease agreement for advertising displays in the Asheville Civic Center Arena Concourse Area on September 13, 1983. This motion was seconded by Councilwoman Bratton and carried unanimously.

SCHEDULING PUBLIC HEARING - REZONING PROPERTY ON SWANNANOA RIVER ROAD WARD 8, SHEET 17, LOT 18

Vice-Mayor Price moved to schedule a public hearing relative to rezoning Lot 18, Ward 8, Sheet 17, on Swannanoa River Road, from R-2 Low Density Residential District to CH Commercial Highway District for September 27, 1983. This motion was seconded by Councilwoman Frank and carried unanimously.

CLAIMS - GERTIE HANKERSON (PUBLIC WORKS) - RITA RHYMER (WATER & SEWER) - HAROLD RADCLIFF (WATER & SEWER)

The City Manager presented claims received from Gertie Hankerson, Rita Rhymer, and Harold Radcliff.

Mayor Trantham referred the claims to the Corporation Counsel for investigation and recommendation.

PROCLAMATION - NATIONAL BUY AMERICAN WEEK - SEPTEMBER 6-17, 1983

Mayor Trantham proclaimed September 6 - 17, 1983 as National Buy American Week.

PROCLAMATION - NATIONAL GRANDPARENTS DAY - SEPTEMBER 11, 1983

Mayor Trantham proclaimed September 11, 1983 as National Grandparents Day.

PROCLAMATION - FRENCH BROAD RIVER WEEK - SEPTEMBER 10 - 17, 1983

Mayor Trantham proclaimed September 10 - 17, 1983 as French Broad River Week.

PROCLAMATION - ASHEVILLE SYMPHONY MONTH - MONTH OF SEPTEMBER, 1983

Mayor Trantham proclaimed the month of September, 1983 as "Asheville Symphony Month."

REPORT ON KILLIAN ROAD BRIDGE

The City Manager said he has a final report on the Killian Road Bridge replacement and he would be sending members of Council as well as the property owners in the Killian Road Bridge area a copy of the report. He said the bridge was inspected by the State and will not accommodate fire trucks, garbage trucks, oil delivery trucks, etc.

RALPH BISHOP - COMMENTS RELATIVE TO OBTAINING CITY RECORDS

Ralph Bishop again appeared before Council requesting police pension records.

ADJOURNMENT

Upon motion, the meeting adjourned at 6:00 p. m.

Dorothy Trantham
MAYOR

William F. Burnett
CITY CLERK

Continuation of Adjourned Meeting from August 30, 1983

Thursday - September 1, 1983 9:30 a.m.

Present: Mayor Roy M. Trantham, Presiding; Vice-Mayor Norma T. Price; Councilwomen Mary Lloyd Frank and Wilhelmina Bratton; Councilman Pless; Patsy Brison, Legal Analyst; Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Councilman Larry McDevitt and Councilman Gordon Myers.

The meeting was called to order by Mayor Trantham in the City Council Chambers at 9:30 a. m. Motion by Councilwoman Frank, seconded by Vice-Mayor Price to go into executive session on a personnel matter. The motion was adopted unanimously.

The meeting was then moved to the Fourth Floor Training Room in the City Building.

Attendance: Mayor Roy M. Trantham, Vice-Mayor Norma T. Price, Councilwoman Wilhelmina Bratton, Councilman Joe Pless, Councilwoman Mary Lloyd Frank, William DeBruhl, Director of Water and Sewer Services, Sam Graves, Director of Management Services, Thomas C. Posey, Civil Service Board member; Raymond Stepp, Civil Service Board member; Wade Thomas, Civil Service Board member, Sheila Fellerath, Civil Service Board member; City Manager K. M. Michalove, Patsy Brison, Leal Analyst.

After approximately one hour the Civil Service Board and William DeBruhl were excused and after approximately another thirty minutes the Council opened the meeting to a regular session.

Ken Michalove, City Manager, recommended that the City appeal the August 24, 1983 decision of the Civil Service Board relating to David G. McMahan and Bobby G. Metcalf.

Vice-Mayor Price moved to uphold that recommendation and to appeal to Superior Court based on her conclusion that these individuals had no right of appealing their grievance to the Civil Service Board. Motion seconded by Councilwoman Frank. Motion was defeated on a vote of 3 to 2 with Mayor Trantham, Councilwoman Bratton, and Councilman Pless casting the dissenting votes.

Upon motion of Councilwoman Frank, seconded by Councilman Pless the meeting adjourned.

2. R-5 Residential District

Change the maximum density level from 10 units/acre to 6 units/acre.

In making these recommendations the Commission's aim was to: (1) address the need for all types of housing, (2) recognize the need to maintain property values for everyone, and (3) address both of these issues and maintain the integrity of the Zoning Ordinance itself.

Mr. Emrick said as instructed by Council, in the Pre-Council meeting, he would prepare a separate ordinance making the above changes in mobile home parks and in the R-5 Residential District.

Mr. Emrick said as a result of discussion in the Pre-Council meeting he would recommend that Council rezone the entire area petitioned to be rezoned to R-3 in the Oakley Dogwood Drive Area.

Mayor Trantham closed the public hearing at 4:40 p. m.

Mr. Emrick read the ordinance rezoning the entire area petitioned to be rezoned.

Vice-Mayor Price moved for the adoption of Ordinance No. 1394. This motion was seconded by Councilman Pless.

On a roll call vote of 6-0, Ordinance No. 1394 passed on first reading.

PUBLIC HEARING - AMENDING THE ZONING ORDINANCE - SECTION 30-9-1 (D) (2) (Governmental Signs to give directions to public facilities)

3. A public hearing was held relative to amending the Asheville Zoning Ordinance, Section 30-9-1 (D) (2).

Mayor Trantham opened the public hearing at 5:45 p. m.

The City Manager presented the notice setting the time and date for the public hearing.

The City Manager suggested that since changes need to be made in the ordinance, that the public hearing be continued for one week.

Vice-Mayor Price moved that the public hearing be continued for one week without further advertisement. This motion was seconded by Councilman McDevitt and carried unanimously.

PUBLIC HEARING - AMENDING THE ASHEVILLE ZONING ORDINANCE - SECTION 30-9-1 - SIGNS (Deleting the words " 'A' frame or sandwich board" from the ordinance)

4. A public hearing was held relative to amending the Asheville Zoning Ordinance, Section 30-9-1 - Signs - relative to deleting the words " 'A' frame or sandwich board" from the ordinance.

Mayor Trantham opened the public hearing at 5:47 p. m.

The City Manager presented the notice setting the time and date for the public hearing.

Tuesday - September 13, 1983 - 4:00 p. m.

Regular Meeting

Present: Mayor Roy M. Trantham, Presiding; Vice-Mayor Norma T. Price; Councilwomen Mary Lloyd Frank and Wilhelmina Bratton; Councilmen Larry McDevitt and Joe Pless; Corporation Counsel William F. Slawter; City Manager K. M. Michalove; Associate City Manager/City Clerk William F. Wolcott, Jr.; Staff Attorney Patsy Brison.

Absent: Councilman Gordon Myers (vacation)

INVOCATION

The invocation was given by Mayor Roy M. Trantham.

APPROVAL OF THE MINUTES

1. Approval of the minutes of the September 6, 1983 meeting.

Councilman McDevitt requested that the minutes be amended on page 134 that the words "moved that Council" be inserted in the motion relative to Windswept View condominiums.

Upon motion of Vice-Mayor Price, seconded by Councilwoman Frank, the minutes of the September 6, 1983 meeting were unanimously approved as amended.

PROCLAMATION - "CONSTITUTION WEEK" - SEPTEMBER 17 - 23, 1983

Mayor Trantham proclaimed the week of September 17-23, 1983 as "Constitution Week."

Mayor Trantham presented the proclamation to Mary Smith and Catherine Williams.

CONTINUATION OF A PUBLIC HEARING - REZONING PROPERTY IN THE OAKLEY-DOGWOOD DRIVE AREA

ORDINANCE NO. 1394 -AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED

2. A public hearing relative to rezoning property in the Oakley-Dogwood Drive Area continued.

Mayor Trantham said this public hearing was continued from the August 30, 1983 meeting.

Verl Emrick, Director of Planning, said at the request of Council on August 30, 1983 the Planning and Zoning Commission, at its meeting of September 7, 1983, discussed the request made by City Council relative to mobile homes within the City's zoning jurisdiction. He said in that regard, the following recommendations were adopted by the Commission:

1. Mobile Home Parks

   a. Increase the minimum lot size inside the park from 3,000 square feet to 5,000 square feet.

   b. Change the maximum density level from 8 units/acre to 6 units/acre.

The City Manager said members of Council were furnished copies of the resolution and it would not be read in its entirety unless there was a specific request to do so.

Note: A proposal has been presented to the City Council by Laura Associates for construction of illuminated advertising boxes to be installed in the Asheville Civic Center Arena Concourse Area. The proposal has been approved by the Asheville Area Civic Center Commission. The City has advertised the terms of the lease agreement as required by N.C.G.S. 160A-272

Upon motion of Councilman Pless, seconded by Councilwoman Frank, Resolution No. 83-159 was unanimously adopted.

Complete text of Resolution No. 83-159 will be found in Resolution Book No. 14 at page 155.

RESOLUTION NO. 83-160 - RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT FOR TRANSPORTATION PLANNING SERVICES WITH THE LAND-OF-SKY REGIONAL COUNCIL

7. Consideration was given to a resolution authorizing the Mayor to enter into a contract for transportation planning services with the Land-of-Sky Regional Council.

The City Manager said members of Council were furnished copies of the resolution and it would not be read in its entirety unless there was a specific request to do so.

The Asheville Urban Area Unified Work Program for 1983-84 has been approved to include a total of $29,480 in Section 112 Planning funds for the purpose of street and highway planning. For timely completion of the Unified Work Program tasks, it is deemed appropriate to designate a portion of the Section 112 Planning funds for the Land-of-Sky Regional Council for carrying out specific segments of the program. $4,000 of the Section 112 Planning funds will be designated to the Land-of-Sky Regional Council for transportation planning work elements.

Upon motion of Vice-Mayor Price, seconded by Councilwoman Frank, Resolution No. 83-160 was unanimously adopted.

Complete text of Resolution No. 83-160 will be found in Resolution Book No. 14 at page 156.

RESOLUTION NO. 83-161 - RESOLUTION AUTHORIZING THE CLOSING OF A PORTION OF CHARLOTTE STREET FROM 10:00 A.M. UNTIL 4:00 P.M. ON SATURDAY, SEPTEMBER 17, 1983

8. Consideration was given to a resolution authorizing the closing of a portion of Charlotte Street from 10:00 a. m. until 4:00 p. m. on Saturday, September 17, 1983.

The City Manager said members of Council were furnished copies of the resolution and it would not be read in its entirety unless there was a specific request to do so.

St. Mary's Church, 339 Charlotte Street, is planning to hold their Annual Sidewalk Sale on Saturday, September 17, 1983. They have requested that a portion of Charlotte Street, lying between Macon Avenue and Evelyn Place, be closed during the hours of the sale.

The City Manager suggested that the public hearing be continued for one week.

Councilman McDevitt moved to continue the public hearing for one week without further advertisement. This motion was seconded by Vice-Mayor Price and carried unanimously.

ORDINANCE NO. 1395 - AN ORDINANCE CHANGING THE RATES CHARGED AT SOME OF THE PARKING LOTS OPERATED BY THE CITY OF ASHEVILLE

5. Consideration was given to an ordinance changing the rates charged at some of the Parking Lots operated by the City of Asheville.

The City Manager said members of Council received copies of the ordinance and it would not be read in its entirety unless there was a specific request to do so.

This ordinance will change hourly and monthly rates for lots mentioned in the ordinance. The ordinance shall be effective upon adoption. There should be only a slight decrease in revenues since the change will basically affect only one Parking Lot, Lot 20 on Eagle Street. The reduction in revenues would equal a maximum of $1,700 in twelve months. It should be noted that this lot has only been in operation for approximately one year. There would be no additional administrative cost to the City. Since revenues in the budget are estimated the $1,700 maximum reduction should not cause the estimated revenues to fall below the total estimate. There will be positive community impacts since persons using the lot will be allowed two (2) hours of parking for 25¢ rather than one (1) hour for 25¢.

Councilwoman Bratton moved for the adoption of Ordinance No. 1395. This motion was seconded by Vice-Mayor Price.

On a roll call vote of 6-0, Ordinance No. 1395 passed on first reading.

Vice-Mayor Price moved to suspend the rules and proceed to the second reading of Ordinance No. 1395. This motion was seconded by Councilwoman Bratton and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1395 passed on second reading.

Vice-Mayor Price moved to suspend the rules and proceed to the third and final reading of Ordinance No. 1395. This motion was seconded by Councilwoman Bratton and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1395 passed on third and final reading.

Complete text of Ordinance No. 1395 will be found in Ordinance Book No. 10 at page [redacted] 66-67, cl

RESOLUTION NO. 83-159 - RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT WITH LAURA ASSOCIATES FOR THE PURPOSE OF PLACING AND LEASING ADVERTISING DISPLAY CASES IN THE ASHEVILLE CIVIC CENTER ARENA CONCOURSE AREA

6. Consideration was given to a resolution authorizing the Mayor to enter into an agreement with Laura Associates for the purpose of placing and leasing advertising display cases in the Asheville Civic Center Arena Concourse Area.

The City Manager said during the Council recess an agreement was prepared in an attempt to satisfy everyone concerned about the project. He said it was decided that the City would pave Windswept to Ardmion and cut out curb and gutters for the new road in order to have funds to grade and stone Ardmion to Pine Street.

Corporation Counsel Bill Slawter outlined the following proposed agreement for approval of the Windswept View Condominiums:

STATE OF NORTH CAROLINA

COUNTY OF BUNCOMBE

AGREEMENT

This Agreement, dated September ____, 1983, by and between the City of Asheville (hereinafter referred to as "City"), Douglas R. Bebber and Ellen W. Goldstein, Developers of the "Windswept View" Condominiums (hereinafter referred to as "Developers"), Alexander Investment Partnership (hereinafter referred to as "Owner"), and the Housing Authority of the City of Asheville (hereinafter referred to as "Housing Authority").

W I T N E S S E T H:

The purpose of this agreement is to make final approval of Phase I of the site plan of the condominium project proposal submitted by Developers and to approve in concept the site plan in general. Said project is known as "Windswept View" condominiums located on an 8-acre site on Windswept Drive in Asheville, North Carolina. Said site plan was conditionally approved by the Asheville Planning and Zoning Commission on August 3, 1983, and was tentatively approved by the Asheville City Council on September 6, 1983, subject to execution of this agreement by all parties hereto. Each of the undersigned parties, their successors and assigns do hereby acknowledge receipt of adequate consideration for the execution of this agreement and do hereby agree that the development of "Windswept View" condominiums shall be subject to the following terms and conditions:

1. Owner shall dedicate to the City a recorded right-of-way 50' in width for a new road mutually acceptable to the City and Owner. Said new right-of-way will run from a point on Windswept Drive and will run along the roadbed of a presently graded road and shall cross Ardmion Drive and continue to the intersection with Pine Street;

2. The Housing Authority shall dedicate to the City a recorded right-of-way 50' in width from the Housing Authority's property line on Pine Street to the property line of the property of Owner where the right-of-way described in condition 1 ends at the Housing Authority's property line. The purpose of the dedication of the right-of-way from the Housing Authority is to complete the right-of-way for the new road from Windswept Drive to Ardmion Drive and further from the intersection of the new road with Ardmion Drive to Pine Street. Said right-of-way from the Housing Authority shall be at a location mutually acceptable to the City and the Housing Authority.

Upon motion of Councilwoman Frank, seconded by Vice-Mayor Price, Resolution No. 83-161 was unanimously adopted.

Complete text of Resolution No. 83-161 will be found in Resolution Book No. 14 at page [redacted] 157

RESOLUTION NO. 83-162 - RESOLUTION APPOINTING MEMBERS TO THE ADULT ADVISORY BOARD OF THE ASHEVILLE-BUNCOMBE COUNTY YOUTH COUNCIL (Dr. Eric Iovacchini - Mr. Richard Fain - Mr. Bob Embler)

9. Consideration was given to a resolution appointing members to the Adult Advisory Board of the Asheville-Buncombe County Youth Council.

The City Manager said members of Council were furnished copies of the resolution and it would not be read in its entirety unless there was a specific request to do so.

This resolution will reappoint Dr. Eric Iovacchini and Mr. Richard Fain and appoint Mr. Bob Embler as members of the Adult Advisory Board of the Asheville-Buncombe County Youth Council.

Upon motion of Councilwoman Frank, seconded by Vice-Mayor Price, Resolution No. 83-162 was unanimously adopted.

Complete text of Resolution No. 83-162 will be found in Resolution Book No. 14 at page [redacted] 158

SITE PLAN OF "WINDSWEPT VIEW" CONDOMINIUMS - WINDSWEPT DRIVE - FURTHER CONSIDERATION

10. Verl Emrick, Director of Planning, said as a result of the tentative motion for approval of the Windswept View Condominiums on September 6, 1983, the City Staff met with the developers and other interested parties in an attempt to prepare an agreement as requested by Council that would be satisfactory to all concerned.

Mr. Emrick said it should be noted that the Planning and Zoning Commission approved all phases of the proposed project. He said it would be his recommendation that a condition be placed in the agreement that the developer would submit site plans for approval on Phase II and III of the project.

Mr. Jack Stevens, attorney representing property owners in the area, said their main concerns were; (1) assurance that before a Certificate of Occupancy is issued for the development and before Phase II and Phase III are started that the new 24' road be fully paved and (2) that before construction of Phase I the new road be put into a stage for all weather traffic. He said the residents would like to be assured that the traffic will be kept off Windswept Drive.

Mr. Stevens also expressed concern that the new road from Ardmion to new Pine Street would not be paved. He said something should be stated in the proposed agreement with the developer that Ardmion to new Pine Street would at least be stoned before a Certificate of Occupancy is issued for Phase I of the project.

A lengthy discussion followed between City Council members, the developer, and residents in the area relative to the conditions to be put in the agreement.

At this time Council recessed to work out the details of the agreement.

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11. Other than the "Windswept View" site plan, no further development requiring the use of the new road described in conditions 1 and/or 2 shall be permitted until the paving of the new road from Ardmion Drive to Pine Street is completed. This subsequent paving of the new road from Ardmion Drive t- Pine Street shall be subject to the requirements of the City Engineering Division;

12. Phase II and Phase III of the "Windswept View" site plan are subject to the approval of the plans by the Planning and Zoning Commission prior to the issuance of building permits for Phase II and Phase III.

The schedule for compliance with conditions shall meet, as nearly as possible, the following:

A. Acceptance of this agreement by the City of Asheville, the Developers Owner, and the Housing Authority;

B. The dedication and recordation of the rights-of-way referred to in conditions 1 and 2 above;

C. The grading of said right-of-way by Owner;

D. The letting of a contract by the City for construction on the rights-of-way;

E. The placement of stone on the 24' wide road from Windswept Drive to Pine Street suitable for construction traffic;

F. The placing of signs by the City at appropriate locations along Windswept Drive south of College Street to discourage construction vehicles from using said portions of Windswept Drive;

G. The beginning of construction of "Windswept View" condominium project by the Developers;

H. The paving of Windswept Drive from the existing pavement to the intersection of Windswept Drive and the right-of-way of the new road and the paving of the new road from the intersection of the new road and Windswept Drive to Ardmion Drive; said paving will proceed as weather and construction conditions permit;

I. After the completion of the "Windswept View" condominium project and the paving of Windswept Drive and the new road, the City shall remove the signs along Windswept Drive south of College Street which discourage construction traffic from that portion of Windswept Drive.

3. The entire right-of-way for the new road described in condition 1 and 2 shall be rough graded by Owner to the requirements of the City Engineering Division as to the width, compaction and slopes, etc. in order to readily accept the construction of a 24' wide paved street including curb and gutters and having adequate room for shoulders and drainage structures;

4. The City shall fund and contract for the paving of a 24' road along the new road in the right-of-way described in condition 1 from the intersection of the right-of-way with Windswept Drive to the intersection of the right-of-way with Ardmion Drive. The extent of City funding shall be limited to $122,000.00. If paving from Windswept Drive to Ardmion Drive can be contracted for less than the said $122,000.00, any funds remaining shall be used to stone the new roadway from Ardmion Drive to Pine Street. Any additional funds remaining thereafter shall be applied to the paving of Windswept Drive to a width of 16' from the intersection of the right-of-way of the new road with Windswept Drive north to the end of the existing pavement on Windswept Drive;

5. If the actual construction cost for paving the new road from Windswept Drive to Ardmion Drive, placing stone from Ardmion Drive to Pine Street, and paving Windswept Drive exceeds the City's funding limit of $122,000.00, the Developers shall pay the remaining construction costs to pave the portion of Windswept Drive described in condition 4;

6. Developers shall at all times comply with all City and applicable State sedimentation control and soil erosion ordinances, regulations and statutes whether now existing or which may be imposed. Developers shall further comply with the water run-off and soil erosion plans as provided by Developers' engineer, Roger Lyda, P.E.;

7. Prior to the beginning of any construction of the "Windswept View" condominium project, the rights-of-way described in conditions 1 and 2 shall be dedicated and recorded;

8. Prior to the beginning of any construction of the "Windswept View" condominium project, the grading and stoning of the new road from Windswept Drive to Pine Street shall be completed pursuant to the requirements of the City Engineering Division;

9. Prior to the beginning of any construction of the "Windswept View" condominium project, the Developers shall provide the City with assurance of financial responsibility by providing copies of loan commitments sufficient to complete Phase I;

10. Prior to the beginning of any construction of the "Windswept View" condominium project, the City shall place signs at appropriate locations along Windswept Drive south of College Street to discourage construction vehicles from using said portion of Windswept Drive. The Developers shall inform all contractors, subcontractors, material-men and workmen of the existence of said notice and shall encourage said contractors, subcontractors, material-men and workmen to use the new road from Ardmion Drive to Windswept Drive;

After discussion relative to the agreement, Councilwoman Bratton moved to postpone action on the agreement for one (1) week giving Council Members an opportunity to review a draft of the agreement. This motion died for the lack of a second.

Councilman Pless moved to approve the site plan of the Windswept View Condominiums as stipulated in the above agreement. This motion was seconded by Vice-Mayor Price, which motion carried on a voice vote of 5-1, with Councilwoman Bratton voting "no."

Vice-Mayor Price was excused from the meeting at 6:50 p. m.

RESOLUTION NO. 83-163 - RESOLUTION DIRECTING THE ASHEVILLE PLANNING AND ZONING COMMISSION TO PROCEED TO DETERMINE THE APPLICABILITY OF ARTICLE 22, CHAPTER 160-500-526 OF THE NORTH CAROLINA GENERAL STATUTES FOR THE PROPOSED DOWNTOWN PROJECT

Consideration was given to a resolution directing the Asheville Planning and Zoning Commission to proceed to determine the applicability of Article 22, Chapter 160-550-526 of the North Carolina General Statutes for the proposed downtown project.

The City Manager read the resolution which outlined the project areas.

Upon motion of Councilwoman Frank, seconded by Councilman McDevitt, Resolution No. 83-163 was unanimously adopted.

Complete text of Resolution No. 83-163 will be found in Resolution Book No. 14 at page 159

CLAIMS - ROBERT P. HANSEN (WATER & SEWER) - SHIRLEY McCULLOUGH (WATER & SEWER) - LOIS CASSIDY (WATER & SEWER)

LAWSUITS - WAYNE WARREN (POLICE) - KENNETH E. YOUNG (BODILY INJURY) - LESTIE SHERLIN (BODILY INJURY AND PROPERTY DAMAGE)

The City Manager presented claims received from Robert P. Hansen, Shirley McCullough, and Lois Cassidy.

The City Manager also presented summonses received in connection with lawsuits involving Wayne Warren (wrongful act/Police), Kenneth E. Young (bodily injury-stop sign down), Lestie Sherlin (bodily injury and property damage/ice on street from water line break).

Mayor Trantham referred the claims and lawsuits to the Corporation Counsel for investigation and recommendation.

PROCLAMATION - PRINCE HALL MASONIC WEEK - SEPTEMBER 18-24, 1983

Mayor Trantham proclaimed September 18-24, 1983 as Prince Hall Masonic Week.

PROCLAMATION - NATIONAL ASSOCIATION OF WOMEN IN CONSTRUCTION - SEPTEMBER 11-17, 1983

Mayor Trantham proclaimed September 11-17, 1983 as National Association of Women in Construction week.

In Witness Whereof, the City and the Housing Authority have caused this Agreement to be executed by their duly authorized representatives and the individual parties have signed their signatures and affixed their seals the day and year first above written.

CITY OF ASHEVILLE

By: _____
Roy M. Trantham, Mayor

_____ (Seal)
Douglas R. Bebber, Developer
"Windswept View" Condominiums

_____ (Seal)
Ellen W. Goldstein, Developer
"Windswept View" Condominiums

ALEXANDER INVESTMENT PARTNERSHIP

By: _____
Robert J. Robinson, Executor
Estate of Perry M. Alexander, Jr., Partner
Post Office Box 7625
Asheville, North Carolina 28807

ALEXANDER INVESTMENT PARTNERSHIP

By: _____
Walter W. Alexander, Partner

HOUSING AUTHORITY OF THE CITY OF ASHEVILLE

By: _____
Chairman

After walking over your property and analyzing the source of the water, it is my opinion that the City is not responsible for the drainage problems that you are having and that your recourse might be more appropriately directed at the developer of that area, the realtor that sold the property, and/or the former owner of the property.

I am very sorry that we cannot help you with labor and materials on this problem, as you obviously have a very serious drainage problem. However, I will be glad to have Mr. Tarrant provide you with technical advice for making the repairs yourself.

Very truly yours,

K. M. Michalove
City Manager

September 8, 1983

Mrs. Mary Ann Chance
20 Eve Lake Drive
Asheville, North Carolina 28806

Dear Mrs. Chance:

The City Attorney and I have re-examined the information that you have provided the City over the past year regarding the storm drainage problems that you have been asking the City to repair or participate in. We have also provided this information to the City Council Planning Committee that reviews and develops various proposals to change or amend our policies.

After this re-examination, it is still our opinion that the City is not responsible for the drainage problems that you are having and that your recourse might be more appropriately directed at the developer of the area and/or the former owner of the property. We have determined that this problem existed prior to this area being annexed into the City and was a result of designs that the City had no jurisdiction over.

The City is looking into some other alternatives that would help individuals with circumstances such as you have in your yard by the consideration of a drainage district program whereby property owners would pay a special tax to provide funds to assist in these types of situations. However, that program may be some time in process due to the necessity for legal reviews and definitive policies to be developed.

I am very sorry that we cannot help you with either labor or materials on this problem. However, I will be glad to have Mr. Tom Tarrant provide you with some technical advice for making the repairs yourself.

Very truly yours,

K. M. Michalove
City Manager

WIND BANNER SIGN - HIAWASSEE STREET - NATURE SOCIETY - HEY DAY

Councilwoman Bratton moved to approve the request of the Nature Society to place a wind banner sign at 37 Hiawassee Street for the "Hey Day" festival. The wind banner sign to be placed from September 12 - 24, 1983. This motion was seconded by Councilwoman Frank and carried unanimously.

PETITION RELATIVE TO TRAFFIC ON CLAIRMONT AVENUE

The City Manager reported that he had received a petition from residents on Clairmont Avenue requesting that the street be made a two-way street. He said he also received a petition requesting the street be a one-way street. He asked members of Council to drive through the area in order that a discussion can be held on the matter next week.

MARY ANN CHANCE - 20 EVE LAKE DRIVE - STORM DRAINAGE PROBLEM

Mrs. Mary Ann Chance, 20 Eve Lake Drive, appeared before Council stating that she has had a storm drainage problem for over two (2) years. She said she has tried to get assistance from the City in getting the problem corrected. She said she had received a letter from the City Manager stating that no assistance can be given from the City. She said they would be willing to pay for the materials to correct the problem if the City would furnish the labor. She said the problem is very dangerous because children play in the area and could fall in the hole. She said they would even be willing to give the City additional easements if the City would help to correct the problem.

A diagram was drawn for members of Council outlining the details of the problem pointing out the culverts, branch, etc. in the area.

Mrs. Chance said erosion over the years has made the hole bigger and deeper and all that was needed to correct the problem was to extend the existing culvert with an elbow channeling the water to the branch.

The City Manager agreed that the problem has existed for several years. He read the following letters outlining the background of the problem. He said he had also received an inquiry from Congressman Clarke relative to the problem. He said the City Attorney and the Council Planning Committee had also reviewed the problem.

OFFICE OF
CITY MANAGER

August 31, 1982

Mrs. Mary Ann Chance
30 Evelake Drive
Asheville, North Carolina 28806

Dear Mrs. Chance:

In mid-August Tom Tarrant, City Engineering Coordinator, and I came out to your house and looked at the storm drainage problem that you had been asking the City to repair.

Tuesday - September 20, 1983 - 4:00 p. m.

Regular Meeting

Present: Mayor Roy M. Trantham, Presiding; Vice-Mayor Norma T. Price; Councilwomen Mary Lloyd Frank and Wilhelminia Bratton; Councilmen Larry McDevitt, Joe Pless, and Gordon Myers; Corporation Counsel William F. Slawter; City Manager K. M. Michalove; Associate City Manager/City Clerk William F. Wolcott, Jr.; Staff Attorney Patsy Brison.

Absent: None

INVOCATION

The invocation was given by Councilwoman Mary Lloyd Frank.

APPROVAL OF THE MINUTES

1. Approval of the minutes of the September 13, 1983 meeting.

Upon motion of Vice-Mayor Price, seconded by Councilman McDevitt, the minutes of the September 13, 1983 meeting were unanimously approved as submitted.

PROGRESS REPORT ON REPLACEMENT OF GLEN FALLS ROAD BRIDGE

At the request of Mayor Trantham, Mr. Clark Brown, Director of Public Works, read the following status report relative to Glen Falls Road Bridge. He said this status report was in response to a memorandum from the City Manager.

MEMORANDUM TO: Ken Michalove
City Manager

FROM: Clark Brown
Director of Public Works

DATE: September 15, 1983

SUBJECT: Your Memorandum of September 7, 1983 - Glenn Falls Road Bridge

Ken, I am replying to your memo by guessing at some of the questions asked. Our consultant will not be available to give us a better time estimate for about three weeks.

I am replying using the same number sequence as in your memo:

1. Current condition of the bridge. The bridge is still restricted to one-way traffic with the load restriction unchanged. As indicated by the monthly visual inspection reports there have been no significant changes since the restrictions were placed on the bridge.

2. Status of drawings and specifications. The drawings and specifications have not been developed. The Planning Report has been submitted to N.C.D.O.T. for which we have not yet received word of either approval or disapproval. The construction plans and specifications cannot be developed until the Planning Report is approved or amended and approved.

Mrs. Chance again said they would be willing to pay for the materials if the City would furnish the labor. She said the City Engineering Division has estimated it would cost approximately $10,000 to make the necessary repairs. She said she obtained an estimate from Terry Enterprises in the amount of $1,098. She said someone told her that all that was needed to solve the problem was to extend the pipe and fill in the hole.

Mrs. Chance answered questions from members of Council relative to her problem.

Councilman McDevitt said the Council Planning Committee could not justify the city doing work on storm sewers. He said there are many similiar situations in the City of Asheville and Council must follow the same policy for all situations. He said the city does not have the funds to correct all the problems throughout the city.

Mrs. Chance commented that the City of Asheville annexed her property knowing this problem existed.

A discussion followed relative to annexing property with problems of this nature.

Mrs. Chance said she was told that the problem did not exist until the road to the Meadows Apartments was built. She said the water comes from the streets in the Meadows Apartments complex.

After discussion Councilman McDevitt requested that the City Manager set aside thirty (30) minutes of a Pre-Council meeting to discuss the ten (10) worst storm drainage problems in the City of Asheville and the impact this would have on the contingency fund to correct these situations. He said Mrs. Chance would be welcome to attend the Pre-Council meeting when this is discussed.

ADJOURNMENT

Upon motion of Councilman McDevitt, seconded by Councilwoman Frank, the meeting adjourned at 7:40 p. m.

MAYOR

CITY CLERK

Councilman Myers moved for the adoption of Ordinance No. 1396. This motion was seconded by Councilman McDevitt.

On a roll call vote of 7-0, Ordinance No. 1396 passed on first reading.

Councilwoman Frank moved to suspend the rules and proceed to the second reading of Ordinance No. 1396. This motion was seconded by Councilman McDevitt and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1396 passed on second reading.

Councilwoman Frank moved to suspend the rules and proceed to the third and final reading of Ordinance No. 1396. This motion was seconded by Councilman McDevitt and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1396 passed on third and final reading.

Complete text of Ordinance No. 1396 will be found in Ordinance Book No. 10 at page 168.

ORDINANCE NO. 1394 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED (Property in the Oakley-Dogwood Drive Area)

3. Consideration was given to the second reading of Ordinance No. 1394, an ordinance amending Ordinance No. 322, known as "An Ordinance Providing for the Zoning of the City of Asheville," as amended rezoning property in the Oakley Dogwood Drive area.

Mayor Trantham said this ordinance was previously read on first reading and would not be re-read in its entirety unless there was a specific request to do so.

Mr. Steven Barnwell, property owner in the Oakley-Dogwood Drive area, appeared before Council requesting that his property surrounded by the Blue Ridge Parkway, Floyd Drive and Onteora Blvd. remain zoned R-5 Residential District. He said he purchased the property with the understanding that it was zoned R-5 Residential District. He requested that Council reconsider the decision of the Planning and Zoning Commission and rezone the smaller area recommended by Planning and Zoning to R-3 Residential District. He said the predominent use in this area is for mobile home usage. He presented members of Council with a map showing his property that he wished to remain zoned R-5 Residential District.

After discussion it was the consensus of Council to continue with the second reading of Ordinance No. 1394 and due to a technicality to readvertise the entire area to be rezoned to R-3 Residential District for October 4, 1983. It was noted that the public hearing notice advertised the smaller area recommended by Planning and Zoning Commission to be rezoned and it was necessary to readvertise the public hearing to rezone the entire area to R-3 Residential District.

On a roll call vote of 7-0, Ordinance No. 1394 passed on second reading.

Vice-Mayor Price moved to schedule a public hearing to rezone the entire area requested to be rezoned in the Oakley Dogwood Drive Area for October 4, 1983. This motion was seconded by Councilman McDevitt and carried unanimously.

3. Contract Letting. Here is where I will start guessing. This late in the year and without approved construction drawings and specifications, the contract letting would probably take place in the spring of next year.

4. Start of Construction. Thirty to sixty days after contract letting.

5. Completion of Project. One hundred fifty to one hundred eighty days after start of construction.

Ken, if you recall, we were advised that it could take up to two years to complete the project after the Board of Transportation approved it.

I regret that I cannot give you a more definite time frame.

In response to questions from members of Council, Mr. Brown said the funds for the work on the Glen Falls Road Bridge would come from the Off-System Federal Bridge Program. He said the planning report was submitted in late April or early May, however funds are still available through the State and appropriated for in the budget.

Councilwoman Frank suggested that the city give the property owners a monthly status report on the Glen Falls Road Bridge project, perhaps at the Lakeview Park Association meetings.

In response to several property owners in the area, Mr. Brown said he would estimate that the bridge would be out of operation about 150 to 180 days for construction. He said construction would probably begin in the spring or summer of 1984.

CONTINUATION OF PUBLIC HEARING - PROPOSED WORDING AMENDMENT - SECTION 30-9-1 -SIGNS (GOVERNMENTAL SIGNS TO GIVE DIRECTIONS TO PUBLIC FACILITIES)

ORDINANCE NO. 1396 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE" AS AMENDED

2. A public hearing relative to amending the Asheville Zoning Ordinance, Section 30-9-1, (D) (2) exempting governmental signs to give directions to public facilities from the provisions of the sign ordinance continued.

Mayor Trantham said this public hearing was continued from the September 13, 1983 meeting.

Verl Emrick, Director of Planning, said this amendment would merely exempt governmental signs to give directions to public facilities from the provisions of the sign ordinance. He said the exemption would read as follows:

> "Official governmental notices and notices posted by governmental officers in the performance of their duties; governmental signs to control traffic or for other regulatory purposes, or to identify streets, or to give directions to public facilities, or to warn of danger."

Mayor Trantham closed the public hearing at 4:25 p. m.

Upon inquiry of Councilman Pless, Mr. Emrick said he did not think the growth of the maple trees would interfere with the placement of the angel.

Upon motion of Councilwoman Frank, seconded by Vice-Mayor Price, Resolution No. 83-165 was unanimously adopted.

Complete text of Resolution No. 83-165 will be found in Resolution Book No. 14 at page 162

SCHEDULING OF PUBLIC HEARING - SITE PLAN OF PROPOSED ADDITION OF GYMNASIUM AT THE TRINITY BAPTIST CHURCH ON SHELBURNE ROAD

7. Councilman Myers moved to schedule a public hearing relative to the site plan of the proposed addition of a Gymnasium at the Trinity Baptist Church on Shelburne Road for September 27, 1983. This motion was seconded by Councilwoman Frank and carried unanimously.

PROPERTY IN THE SOUTH CHARLOTTE STREET CONSTRUCTION SITE AREA

Upon inquiry of Councilman McDevitt, the City Manager said the City is in the process of purchasing property in the construction site area of South Charlotte Street and it is planned that a new culvert will be installed and the property filled in and brought up to road level.

RESOLUTION NO. 83-166 - RESOLUTION AUTHORIZING CITY MANAGER TO SIGN CONTRACT WITH ATTORNEY LANDON ROBERTS FOR LEGAL SERVICES IN CONNECTION WITH LAWSUIT FILED AGAINST CITY OF ASHEVILLE BY WAYNE EUGENE WARREN

Consideration was given to a resolution authorizing the City Manager to sign contract with Attorney Landon Roberts for legal services in connection with lawsuit filed against City of Asheville by Wayne Eugene Warren.

The City Manager read the resolution.

Upon motion of Councilman McDevitt, seconded by Councilwoman Frank, Resolution No. 83-166 was unanimously adopted.

Complete text of Resolution No. 83-166 will be found in Resolution Book No. 14 at page 163

RESOLUTION NO. 83-167 - RESOLUTION WITH RESPECT TO THE DESTRUCTION OF A CIVILIAN AIRLINER BY THE USSR

Consideration was given to a resolution with respect to the destruction of a civilian airliner by the USSR.

The City Manager read the resolution stating that this resolution expresses Council's support and the support of the people of the City to our national government, the President and the Congress as they represent our individual and national interest in this tragic situation.

Upon motion of Councilman McDevitt, seconded by Councilwoman Frank, Resolution No. 83-167 was unanimously adopted.

Complete text of Resolution No. 83-167 will be found in Resolution Book No. 14 at page 164

Councilman McDevitt moved to schedule the third reading of Ordinance No. 1394 for October 4, 1983. This motion was seconded by Vice-Mayor Price and carried unanimously.

CONTINUATION OF PUBLIC HEARING - PROPOSED WORDING AMENDMENT - SECTION 30-9-1 - SIGNS (Deletion of " 'A' frame or sandwich board" from Section 30-9-1 C-10)

4. Councilman Myers moved to continue the public hearing relative to a proposed wording amendment to the Asheville Zoning Ordinance Section 30-9-1 - Signs (C-10) for one (1) week without further advertising. This motion was seconded by Councilman Pless and carried unanimously.

RESOLUTION NO. 83-164 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE LEASE ON BEHALF OF THE CITY WITH THE UNITED STATES OF AMERICA RELATING TO SPACE COMPRISING THE ENTIRE BUILDING KNOWN AS THE FAA SECTOR FIELD OFFICE LOCATED AT THE ASHEVILLE MUNICIPAL AIRPORT

5. Consideration was given to a resolution authorizing the Mayor to execute lease on behalf of the City with the United States of America relating to space comprising the entire building known as the FAA Sector Field Office located at the Asheville Municipal Airport.

The City Manager said members of Council were furnished copies of the resolution and it would not be read in its entirety unless there was a specific request to do so.

Note: The Federal Aviation Administration presently leases approximately 1152 square feet of space at the Asheville Municipal Airport. This resolution will authorize continuation of the lease.

Upon motion of Councilwoman Frank, seconded by Councilman Pless, Resolution No. 83-164 was unanimously adopted.

Complete text of Resolution No. 83-164 will be found in Resolution Book No. 14 at page 161.

PROCLAMATION - SICKLE CELL ANEMIA MONTH - SEPTEMBER, 1983

The City Manager read a proclamation proclaiming the month of September, 1983 as Sickle Cell Anemia Month.

Upon motion of Councilwoman Bratton, seconded by Councilman Myers the proclamation was unanimously adopted.

Mayor Trantham presented a copy of the proclamation to Priscilla Johnson.

RESOLUTION NO. 83-165 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT WITH THE UNITED DAUGHTERS OF THE CONFEDERACY, CHAPTER 104, FOR THE SITING OF A REPLICA OF THE THOMAS WOLFE ANGEL

6. Consideration was given to a resolution authorizing the Mayor to execute an agreement with the United Daughters of the Confederacy, Chapter 104, for the siting of a replica of the Thomas Wolfe Angel.

The City Manager said members of Council were furnished copies of the resolution and agreement and it would not be read in its entirety unless there was a specific request to do so. He said the angel would be placed on Pack Square in front of the Old Pack Library between two maple trees.

PROCLAMATION - DAY OF INTEGRITY - SEPTEMBER 24, 1983

The City Manager proclaimed September 24, 1983 as Day of Integrity.

DISCUSSION RELATIVE TO STORM DRAINAGE

In response to Councilwoman Bratton, the City Manager said, during the Pre-Council meeting, Council ask the City Manager, the Director of Public Works, the City Engineer and the Corporation Counsel to look into justifying protection of sewer lines and give a report to Council next week.

RALPH BISHOP - EXPRESSION OF OPINIONS IN COUNCIL MEETINGS

Ralph Bishop appeared before Council stating his rights to express his opinions on matters before City Council for consideration.

ADJOURNMENT

Upon motion of Councilwoman Bratton, seconded by Councilwoman Frank, the meeting adjourned at 5:30 p. m.

MAYOR

CITY CLERK

RESOLUTION NO. 83-168 - RESOLUTION AUTHORIZING THE MAYOR TO SIGN A CONTRACT FOR FIRE PROTECTION SERVICES WITH THE VETERANS ADMINISTRATION HOSPITAL AT OTEEN

Consideration was given to a resolution authorizing the Mayor to sign a contract for fire protection services with the Veterans Administration Hospital at Oteen.

The City Manager read the resolution stating that the City staff and the VA staff have negotiated a new agreement for the period October 1, 1983 through December 31, 1983 and are continuing to negotiate to resolve some conflicts in the contract clauses so that the period may be extended.

Upon motion of Councilwoman Frank, seconded by Vice-Mayor Price, Resolution No. 83-168 was unanimously adopted.

Complete text of Resolution No. 83-168 will be found in Resolution Book No. 14 at page 165

RESOLUTION NO. 83-169 - RESOLUTION TO PROVIDE ASSURANCES TO PRIVATE DEVELOPERS THAT THE CITY OF ASHEVILLE SHALL USE ITS BEST EFFORTS TO SECURE FUNDS FOR THE PROPOSED DOWNTOWN REDEVELOPMENT PROJECT

Consideration was given to a resolution to provide assurances to private developers that the City of Asheville shall use its best efforts to secure funds for the proposed downtown redevelopment project.

The City Manager read the resolution.

Councilman McDevitt said this resolution was a formal expression of intent to use Community Development and Revenue Sharing funds for needed public improvements if approved by City Council.

Upon motion of Councilman McDevitt, seconded by Vice-Mayor Price, Resolution No. 83-169 was unanimously adopted.

Complete text of Resolution No. 83-169 will be found in Resolution Book No. 14 at page 166

CLAIMS - MOZELLE PECK (PUBLIC WORKS) - MARVIN VIERRA (PUBLIC WORKS) - JOAN WILSON (WATER AND SEWER)

The City Manager presented claims received from Mozelle Peck, Marvin Vierra, and Joan Wilson.

Mayor Trantham referred the claims to the Corporation Counsel for investigation and recommendation.

PROCLAMATION - THOMAS CLAYTON WOLFE DAY - OCTOBER 3, 1983

Mayor Trantham proclaimed October 3, 1983 as "Thomas Clayton Wolfe Day."

PROCLAMATION - CONSTITUTION WEEK - SEPTEMBER 17 - 23, 1983

Mayor Trantham proclaimed September 17-23, 1983 as "Constitution Week."

RESOLUTION NO. 83-172 - RESOLUTION TO AUTHORIZE THE MAYOR TO SIGN ON BEHALF OF THE CITY OF ASHEVILLE AN OFFER TO NEGOTIATE WITH THE BERNSTEIN GROUP, INCORPORATED

3. Consideration of a resolution to authorize the Mayor to sign on behalf of the City of Asheville an offer to negotiate with the Bernstein Group, Incorporated.

The City Manager read the resolution.

Upon motion of Councilwoman Frank, seconded by Councilwoman Bratton, Resolution No. 83-172 was unanimously adopted.

Complete text of Resolution No. 83-172 will be found in Resolution Book No. 14 at page 169

RESOLUTION NO. 83-173 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A REDEVELOPMENT STUDY CONTRACT WITH THE FIRM OF BUTLER/McGILL ASSOCIATES, P. A.

4. Consideration was given to a resolution authorizing the Mayor to execute a redevelopment study contract with the firm of Butler/McGill Associates, P. A.

The City Manager read the resolution.

Upon motion of Councilwoman Bratton, seconded by Councilwoman Frank, Resolution No. 83-173 was unanimously adopted.

Complete text of Resolution No. 83-173 will be found in Resolution Book No. 14 at page 170

RESOLUTION NO. 83-174 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE ON BEHALF OF THE CITY OF ASHEVILLE A FEDERAL AVIATION GRANT AGREEMENT, PROJECT NO. 3-37-0005-01

5. Consideration was given to a resolution authorizing the Mayor to execute on behalf of the City of Asheville a Federal Aviation Grant Agreement, Project No. 3-37-0005-01.

The City Manager read the resolution.

Upon motion of Councilwoman Frank, seconded by Vice-Mayor Price, Resolution No. 83-174 was unanimously adopted.

Complete text of Resolution No. 83-174 will be found in Resolution Book No. 14 at page 171

ADJOURNMENT

Upon motion of Councilwoman Frank, seconded by Vice-Mayor Price, the meeting adjourned at 5:00 p. m.

MAYOR

CITY CLERK

Monday - September 26, 1983 - 4:00 p. m.

Special Meeting

Present: Mayor Roy M. Trantham, Presiding; Vice-Mayor Norma T. Price; Councilwomen Mary Lloyd Frank and Wilhelmina Bratton, Councilmen Larry McDevitt, Joe Pless, and Gordon Myers; Corporation Counsel William F. Slawter; City Manager K. M. Michalove; Associate City Manager/City Clerk William F. Wolcott, Jr.; Staff Attorney Patsy Brison.

Absent: None

RESOLUTION NO. 83-170 - RESOLUTION TO PROVIDE ADDITIONAL ASSURANCES TO PRIVATE DEVELOPERS THAT THE CITY OF ASHEVILLE SHALL USE ITS BEST EFFORTS TO SECURE FUNDS FOR THE PROPOSED DOWNTOWN REDEVELOPMENT PROJECT

1. Consideration was given to a resolution to provide additional assurances to private developers that the City of Asheville shall use its best efforts to secure funds for the proposed downtown redevelopment project.

The City Manager read the resolution.

Councilman McDevitt said this is basically the same resolution adopted by Council on September 20, 1983, Resolution No. 83-169, with additional language clarifying the city's intent to provide funds for the project with no ad valorem tax funds to be used.

Ralph Bishop opposed the adoption of the resolution.

Upon motion of Vice-Mayor Price, seconded by Councilwoman Bratton, Resolution No. 83-170 was unanimously adopted.

Complete text of Resolution No. 83-170 will be found in Resolution Book No. 14 at page 167

RESOLUTION NO. 83-171 - RESOLUTION TO AUTHORIZE THE MAYOR TO SIGN ON BEHALF OF THE CITY OF ASHEVILLE AN OFFER TO NEGOTIATE WITH SOUTHEASTERN HISTORIC PROPERTIES, INCORPORATED, AND NCNB COMMUNITY DEVELOPMENT CORPORATION

2. Consideration was given to a resolution to authorize the Mayor to sign on behalf of the City of Asheville an offer to negotiate with Southeastern Historic Properties, Incorporated, and NCNB Community Development Corporation.

The City Manager read the resolution.

Councilman McDevitt said this resolution would authorize a negotiation with Southeastern Historic Properties and NCNB to see if a final package for downtown development can be accomplished within the next one hundred twenty (120) days. He said this is an expression of intent to work with these developers.

Upon motion of Vice-Mayor Price, seconded by Councilwoman Bratton, Resolution No. 83-171 was unanimously adopted.

Complete text of Resolution No. 83-171 will be found in Resolution Book No. 14 at page 168

PUBLIC HEARING - REZONING PROPERTY IN THE OAKLEY DOGWOOD DRIVE AREA (R-5 RESIDENTIAL DISTRICT TO R-3 RESIDENTIAL DISTRICT)

ORDINANCE NO. 1394 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED (Property in the Oakley-Dogwood Drive Area)

4. A public hearing was held relative to rezoning property in the Oakley Dogwood Drive Area from R-5 Residential District to R-3 Residential District.

Mayor Trantham opened the public hearing at 4:15 p. m.

The City Manager presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said due to a technicality it was necessary to procedurally readopt Ordinance No. 1394 since the first advertisement of the rezoning of the Oakley Dogwood Drive area provided for a smaller area to be rezoned than what was actually rezoned by Council. Therefore, a second advertisement was necessary to advertise the entire area to be rezoned from R-5 Residential District to R-3 Residential District.

Mayor Trantham closed the public hearing at 4:16 p. m.

Councilwoman Frank moved for the adoption of Ordinance No. 1394. This motion was seconded by Councilman Myers.

On a roll call vote of 7-0, Ordinance No. 1394 passed on first reading.

Councilwoman Frank moved to suspend the rules and proceed to the second reading of Ordinance No. 1394. This motion was seconded by Councilman McDevitt and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1394 passed on second reading.

Councilwoman Frank moved to suspend the rules and proceed to the third and final reading of Ordinance No. 1394. This motion was seconded by Vice-Mayor Price and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1394 passed on third and final reading.

Complete text of Ordinance No. 1394 will be found in Ordinance Book No. 10 at page 64.a

PUBLIC HEARING - SITE PLAN - PROPOSED ADDITION OF A GYMNASIUM AT THE TRINITY BAPTIST CHURCH ON SHELBURNE ROAD

5. A public hearing was held relative to the site plan of the proposed addition of a gymnasium at the Trinity Baptist Church on Shelburne Road.

Mayor Trantham opened the public hearing at 4:22 p. m.

The City Manager presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Tuesday - October 4, 1983 - 4:00 p. m.

Regular Meeting

Present: Mayor Roy M. Trantham, Presiding; Vice-Mayor Norma T. Price; Councilwomen Mary Lloyd Frank and Wilhelmina Bratton; Councilmen Larry McDevitt; Joe Pless, and Gordon Myers; City Manager K. M. Michalove; Associate City Manager/ City Clerk William F. Wolcott, Jr.; Staff Attorney Patsy Brison.

Absent: Corporation Counsel William F. Slawter

INVOCATION

The invocation was given by Councilman Gordon Myers.

APPROVAL OF THE MINUTES OF THE SEPTEMBER 20, 1983 MEETING

1. Approval of the minutes of the September 20, 1983 meeting.

Upon motion of Councilman McDevitt, seconded by Councilwoman Frank, the minutes of the September 20, 1983 meeting were unanimously approved as submitted.

APPROVAL OF THE MINUTES OF THE SEPTEMBER 26, 1983 SPECIAL MEETING

2. Approval of the minutes of the special meeting of September 26, 1983.

Upon motion of Vice-Mayor Price, seconded by Councilman Pless, the minutes of the special meeting of September 26, 1983 were unanimously approved as submitted.

ORDINANCE NO. 1394 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED (Oakley-Dogwood Drive Area)

3. Consideration was given to the third and final reading of Ordinance No. 1394, an ordinance amending Ordinance No. 322, known as "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," as amended rezoning property in the Oakley Dogwood Drive Area to R-3 Residential District.

Verl Emrick, Director of Planning, said at last week's meeting, Attorney Steve Barnwell appeared before Council requesting that his property located in the area to be rezoned to R-3 be deleted. He said since that time Mr. Barnwell is not adamantly opposed to the R-3 rezoning since he would be allowed to have apartments on his property in the R-3 zoning district. He said it would be the Planning staff's recommendation to continue with the R-3 rezoning of the entire area petitioned to be rezoned.

On a roll call vote of 7-0, Ordinance No. 1394 passed on third and final reading.

Complete text of Ordinance No. 1394 will be found in Ordinance Book No. 10 at page 68.

Mayor Trantham presented the resolution to Mr. Ware.

PROCLAMATION - EMPLOY THE HANDICAPPED WEEK - OCTOBER 2 - 8, 1983

Mayor Trantham proclaimed October 2 - 8, 1983 as "Employ the Handicapped Week."

Mayor Trantham presented the proclamation to Judy Edmonds-Calvert.

PROCLAMATION - MONTH OF OCTOBER, 1983 AS "SPINA BIFIDA MONTH"

Mayor Trantham proclaimed the month of October, 1983 as "Spina Bifida Month."

Mayor Trantham presented the proclamation to Kit Robertson, President of SBA of Asheville.

PROCLAMATION - ALPHA DELTA KAPPA WEEK - OCTOBER 3-7, 1983

Mayor Trantham proclaimed the week of October 3-7, 1983 as "Alpha Delta Kappa Week."

Mayor Trantham presented the proclamation to Connie Cathey.

PROCLAMATION - OCTOBER 3 - 7, 1983 - MINORITY ENTERPRISE DEVELOPMENT WEEK

Mayor Trantham proclaimed the week of October 3-7, 1983 as "Minority Enterprise Development Week."

Mayor Trantham presented the proclamation to Mike Lackey.

RESOLUTION NO. 83-176 - RESOLUTION OF APPRECIATION TO THE HOUSING AUTHORITY OF THE CITY OF ASHEVILLE

Consideration was given to a resolution of appreciation to the Housing Authority of the City of Asheville.

The City Manager said the Assistant Secretary for Public Housing and Indian Affairs, the Regional Administrator, and the Area Manager as well as other housing dignitaries appeared in Asheville on Thursday, September 29, 1983 and presented to the Mayor, the Chairman of the Housing Authority's Board of Commissioners, and the Executive Director, a 1983 HUD Recognition Award. He said a similar award was made to the City of Asheville and the Housing Authority in 1982 for outstanding and innovative use of Federal funds.

Upon motion of Councilwoman Bratton, seconded by Councilwoman Frank, Resolution No. 83-176 was unanimously adopted.

Complete text of Resolution No. 83-176 will be found in Resolution Book No. 14 at page 173

Verl Emrick, Director of Planning, presented members of Council with a copy of the site plan of the proposed addition of a Gymnasium at the Trinity Baptist Church at 216 Shelburne Road. He said the project will be an addition to the Church facilities consisting of four (4) structures. He said water and sewer are available in sufficient quantities for the project. He said the Asheville Planning and Zoning Commission at a meeting held September 7, 1983, reviewed the site plan and after review and discussion of the plan, the Commission voted to recommend approval to City Council subject to submission of an Environmental Impact Statement and compliance with the Erosion Control Ordinance.

Mr. Bob Warren, 117D Cherry Street, Black Mountain, North Carolina, Attorney, said he represented a property owner in the area opposed to the rezoning. He questioned whether the project would have to have approval from the Board of Adjustment as a conditional use even though the site plan is approved by Council.

In response to Mr. Warren, Mr. Emrick said in his opinion a gymnasium would be an ancillary use to the church and would not require approval by the Board of Adjustments.

Mr. Warren said the neighbors in the area are concerned with adequate parking for the church and its functions and also the long term use of the structures. He said he understood that the church was considering a school in the future. He suggested that the church come up with a comprehensive final plan for the church and its future uses.

Mr. Richard Worley, with Daniels-Worley, architects for the project, briefly described the project. He said the proposed addition would compliment the neighborhood. He said the project was carefully reviewed and they located the addition in the proposed location to minimize the environmental impact of the community.

Mr. H. G. Mello, Shelburne Road, spoke in favor of the project.

Mrs. Ralph Sexton spoke in support of the project.

Mayor Trantham closed the public hearing at 4:47 p. m.

Upon inquiry of Councilman McDevitt, Mr. Emrick said the proposed plan meets all zoning requirements. He said there was no legal reason to deny the approval of the project.

Councilwoman Frank moved to approve the site plan of the proposed addition of a gymnasium at the Trinity Baptist Church on Shelburne Road as recommended by the Planning and Zoning Commission. This motion was seconded by Councilman Myers and carried unanimously.

RESOLUTION NO. 83-175 - RESOLUTION OF APPRECIATION TO MR. OTIS WARE

Consideration was given to a resolution of appreciation to Mr. Otis Ware, who recently came to the rescue of Ms. Sarah O'Kelley, a citizen of Asheville, who was being phycially assulted by an unknown man. As a result of Mr. Ware's courageous efforts, the assailant was apprehended.

The City Manager read the resolution.

Upon motion of Councilwoman Frank, seconded by Vice-Mayor Price, Resolution No. 83-175 was unanimously adopted.

Complete text of Resolultion No. 83-175 will be found in Resolution Book No. 14 at page 172

Mr. Frank Brown, of Gracelyn Garden Apartments, spoke in support of the resolution. He said there were no problems when the street was changed to a two-way street several years ago. He said there were no accidents on the street when it was two-way. He said his main interest for requesting the two-way street is also for safety since Clairmont is very narrow. He said this action would change the direction of traffic for one house on the street.

Nona McDonald, Gracelyn Garden Apartments, spoke in support of the resolution for safety reasons. She said it is very dangerous to turn into Clairmont from Merrimon Avenue.

Councilwoman Frank said she would agree with the City Manager's recommendation and to enforce the "no parking" on the street.

Councilman McDevitt said he would be in favor of leaving Clairmont one-way and to have the City staff review the matter further and determine if the situation could be made safer without changing the traffic patterns.

Councilman Myers moved for the adoption of the resolution. This motion was seconded by Councilman Pless.

After discussion, Councilman Pless offered a substitute motion to table the resolution until October 18, 1983 requesting that the Traffic Engineer review the matter further and to provide Council members with a traffic count on Clairmont Avenue. This motion was seconded by Councilwoman Bratton.

At the request of Councilman McDevitt a roll call was taken on Councilman Pless' motion, which motion passed on a 4-3 vote, with Councilman McDevitt, Councilman Myers and Mayor Trantham voting "no."

DISCUSSION RELATIVE TO CLOSING OF FIRE STATION #3 ON LOUISIANA AVENUE

Councilman McDevitt made the following statement relative to the closing of Fire Station #3 on Louisiana Avenue.

"Several months ago the City Manager reported to City Council his proposal to close Fire Station Number 3 on Louisiana Avenue in West Asheville and to relocate the administrative offices of the Fire Department there. The plan suggests that its adoption would improve the operation and management of the Fire Department at reduced cost without a reduction in the level of service. Following this announcement, a study of the proposed plan was done by the League of Municipalities."

"I have carefully reviewed the proposed plan, the League's study, and conducted my own investigation to assist me in evaluating the proposal. I find that while the proposal might result in some financial savings, I have serious doubts about that point, and suggest that achieving financial savings by closing fire departments is not necessarily in the public interest; rather, our primary concern is the protection of the lives and property of our citizens. Further, I find few, if any, administrative improvements that could not be handled in our current downtown facility. Last, I find that the proposed closing of Station Number 3 will impair the ability of the City to respond effectively to fires in certain areas of West Asheville, and would needlessly expose portions of the community to danger if simultaneous fires should occur. Based on these findings, I have concluded that the proposed closing of Station Number 3 is not in the public interest and should not be adopted."

RESOLUTION NO. _____ - RESOLUTION AUTHORIZING THE DEPARTMENT OF PUBLIC WORKS TO CHANGE A PORTION OF CLAIRMONT AVENUE BETWEEN GRACELYN GARDEN APARTMENTS ENTRANCE AND GRACELYN ROAD FROM ONE-WAY TRAFFIC TO TWO-WAY TRAFFIC

6. Consideration was given to a resolution authorizing the Department of Public Works to change a portion of Clairmont Avenue between Gracelyn Garden Apartments entrance and Gracelyn Road from one-way traffic to two-way traffic.

The City Manager said members of Council were furnished copies of the resolution and it would not be read in its entirety unless there was a specific request to do so.

The City Manager said several months ago the City received a petition requesting that Clairmont Avenue between Gracelyn Garden Apartments entrance and Gracelyn Road be changed to a two-way traffic pattern. He said shortly after that the City received a petition requesting that Clairmont remain a one-way street.

He said the staff of the Department of Public Works has recommended the change to a two-way traffic. He said his personal recommendation would be that Clairmont remain a one-way street.

Bob McDonald, Traffic Engineer, described what improvements would be necessary to make Clairmont a two-way street. He said all property owners in the area were notified of Council's intent to consider the resolution. He said he received one phone call from Mrs. Morance in Gracelyn Garden Apartments in favor of the two-way street and one letter from Berry Kempson in opposition to the two-way street.

Upon inquiry of Councilwoman Frank, Mr. McDonald said the reasons the residents petitioned for a two-way street is for safety of children walking on Clairmont since there is no sidewalk, the entrance off Gracelyn is narrow, and the two-way street would create a safer street.

Upon inquiry of Vice-Mayor Price, Mr. McDonald said signs would be posted at the entrance to Clairmont that the street is not a through street. He said he did not anticipate any problems with the two-way street since the street is mostly utilized by the residents of the street. He said there is not a large amount of traffic on Clairmont.

Helen Krickan spoke in opposition to the resolution stating that Clairmont is safer as it is with a one-way street. She said to make the street two-way would create a very dangerous situation for pedestrians walking on the street. She also said the street is very dangerous when snow and ice is on the street.

Martha Sessoms also spoke in opposition to the resolution and read a letter from Mr. Fred Pearlman, part owner of the Gracelyn Garden Apartments in opposition to the resolution. Mr. Pearlman's letter requested that the matter be tabled until a more comprehensive study could be made of the street.

Mr. Duffy Rienz, owner of property on Clairmont, spoke in opposition to the resolution stating that Clairmont was made two-way several years ago and it did not work and they changed it back to a one-way street. He said to change the street to two-way traffic is not good traffic engineering practices.

Mr. Joseph Lamey, of 17 Clairmont, spoke in opposition to the resolution stating that it would be dangerous to make it a two-way street.

After discussion, it was the consensus of Council to refer this request to the City Attorney for investigation and report to Council in two (2) weeks, October 18, 1983. Council requested that the City attorney work with the property owners in the flood plain area.

CONTINUATION OF PUBLIC HEARING - PROPOSED WORDING AMENDMENT - ASHEVILLE ZONING ORDINANCE - SECTION 30-9-1 - SIGNS

ORDINANCE NO. 1397 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED

7. A public hearing relative to a proposed wording amendment to the Asheville Zoning Ordinance- Section 30-9-1 - Signs was continued.

Mayor Trantham said this public hearing was continued from the September 20, 1983 meeting.

Verl Emrick, Director of Planning, said the Asheville Planning and Zoning Commission at a meeting held August 3, 1983, reviewed the request from the Inspections Division that Section 30-9-1 (C-10) be amended by deleting the words " 'A' frame or sandwich board" from the first sentence. After discussion, the Commission voted unanimously to recommend this amendment to City Council.

Mayor Trantham closed the public hearing at 6:40 p.m.

The City Manager said members of Council were furnished copies of the ordinance and it would not be read in its entirety unless there was a specific request to do so.

Councilman McDevitt moved for the adoption of Ordinance No. 1397. This motion was seconded by Vice-Mayor Price.

On a roll call vote of 7-0, Ordinance No. 1397 passed on first reading.

SIGN PERMIT FOR NAEGELE OUTDOOR ADVERTISING, INC. - BILLBOARD SIGN - HAYWOOD STREET

8. Consideration was given to a sign permit for Naegele Outdoor Advertising, Inc. for a billboard sign to be located on Haywood Street.

Lem Moore, Director of Inspections, said Naegele Outdoor Advertising, Inc. has applied for a sign permit to place a 14' x 48' billboard sign on Haywood Street. This requires the approval of City Council, pursuant to the Zoning Ordinance, in that the sign is to be situated closer than 600' from a limited access highway. This sign will be placed across the street from the Asheville Transit Authority. He said Naegele Outdoor Advertising, Inc. proposes to construct a new business building at the site.

Councilwoman Bratton moved to approve the sign permit for Naegele Outdoor Advertising, Inc. for a billboard sign on Haywood Street. This motion was seconded by Councilman Myers and carried on a voice vote of 6-1, with Vice-Mayor Price voting "no."

"Since the proposal was submitted to this Council for decision, the residents of West Asheville and the Fire Department have been left hanging by our inaction. It is my opinion that this City Council should act on this matter and not defer that decision for consideration by a new council."

"To that end, I move that this Council adopt as a matter of policy, that Fire Station Number 3 on Louisiana Avenue in West Asheville remain open and manned with personnel and equipment equal or similar to that currently in place."

"As a councilman, it is my job to evaluate this and other recommendations which are submitted to me. Often I agree with these recommendations and other times - as now - I disagree. However, I appreciate the efforts of the City Manager, Chief Ball and the management group at the Fire Department who spent many hours of study in making this proposal. I know that the proposal was well intended and motivated by real concern for the best interests of the City. The process of constantly evaluating City operations is sound and is vital to improving both services and efficiency, and I hope that process will continue in all areas of City government."

The City Manager suggested that Council delay a decision of the Fire Station until after the first of the year giving further opportunity to meet with the West Asheville residents relative to the closing of the station. He said in his opinion a lot of rumors have been spread to the residents which need to be cleared up. He said this decision could have probably been handled administratively but he felt when a service is affected Council should be consulted.

Mayor Trantham said he was against the proposed closing of Fire Station No. 3 but he was in favor of the City Manager's recommendation to wait.

Vice-Mayor Price agreed with Mayor Trantham stating that a vote on this matter before the November 8 election would be "almost superficial."

Councilmen Pless and Myers said they felt most Council members were not in favor of closing Fire Station 3 however they also felt that Councilman McDevitt might have information on the closing that they were not privileged to.

Councilwoman Bratton seconded Councilman McDevitt's motion to have Fire Station Number 3 on Louisiana Avenue remain open.

After discussion, Councilman Pless made a substitute motion that Council vote on the issue of Fire Station Number 3 in two weeks, October 18, 1983, and requested that Councilman McDevitt share the information he has on the station with other members of Council. This motion was seconded by Vice-Mayor Price and carried unanimously.

REQUEST FOR REPEAL OF FLOOD PLAIN ORDINANCE - ATTORNEY JACK WESTALL

Attorney Jack Westall, appearing on behalf of the property owners in the Flood Plain District, requested that Council repeal the flood plain ordinance adopted by Council two (2) years ago. He said the benefits to the City by having the ordinance are entirely speculative and the damages to the property owners are real. He said property values have decreased and they have appealed to the Board of Tax Supervision for adjustment in property values because of the restrictions of the ordinance. He said the ordinance was too restrictive and not always enforced. He said the ordinance interferes with the marketability of property in the area.

C. Resolution No. 83-179 - Resolution authorizing the Data Processing Director to sign the Asheville/Buncombe Regional Criminal Justice Information System user agreement with the District Attorney of the 28th Prosecutorial District.

Resolution Book No. 14 at page 176.

D. Resolution No. 83-180 - Resolution authorizing the Data Processing Director to sign the Asheville/Buncombe Regional Criminal Justice Information System user agreement with the Hendersonville Police Department.

Resolution Book No. 14 at page 177.

HIGHLIGHTS - The Department of Justice Police Information Network requires that a user agreement be signed with each criminal justice agency which is attached to the Asheville/Buncombe Regional Criminal Justice Information System. The above four resolutions will accomplish such requirement.

FISCAL IMPACT - None

E. Resolution No. 83-181 - Resolution authorizing the City Manager to renew an agreement with John J. Short, Sr. for the operation of a snack shop in the City Building.

HIGHLIGHTS: The City of Asheville has leased an area of the City Building on the first floor to John J. Short, Sr., for the operation of a snack shop since May 26, 1977. The operation of the snack shop has been satisfactory. The City Council desires to enter into a new lease with John J. Short, Sr.

FISCAL IMPACT: The anticipated annual revenue from the Snack Shop is targeted at approximately $300 - $500.

Resolution Book No. 14 at page 178.

F. Bids for engine and transmission tools - Asheville Transit Authority

HIGHLIGHTS: One bid was received on September 2, 1983 for engine and transmission tools for the Asheville Transit Authority. No other bid was received. Kent-Moore Tool Division in the total amount of $17,550.45. Recommendation to accept this bid of Kent-Moore Tool Division.

FISCAL IMPACT: Funding for this purchase is available. This purchase is part of an approved UMTA Project No. NC-05-0019-01.

SIGN PERMIT FOR CIRCUIT CITY - 140 TUNNEL ROAD

9. Consideration was given to a sign permit for Circuit City at 140 Tunnel Road.

Lem Moore, Director of Inspections, said Circuit City has requested permission to erect a roof, freestanding, and six (6) logos at their location at 140 Tunnel Road. These signs were approved by the Board of Adjustments. These also require the approval of City Council, pursuant to the Zoning Ordinance, in that the signs will be situated closer than 600' from a limited access highway. He said the signs meet all the requirements.

Councilman Pless moved to approve the sign permit for Circuit City. This motion was seconded by Councilman Myers and carried unanimously.

SIGN PERMIT FOR RIVER RIDGE SHOPPING CENTER - 800 FAIRVIEW ROAD

10. Consideration was given to sign permit for River Ridge Shopping Center at 800 Fairview Road.

Lem Moore, Director of Inspections, said River Ridge Shopping Center has requested permission to erect 218 square feet of signage at 800 Fairview Road. These signs were approved by the Board of Adjustments. These also require the approval of City Council, pursuant to the Zoning Ordinance, in that the signs will be situated closer than 600' from a limited access highway. He said the signs meet all the requirements.

Councilman Pless moved to approve the sign permit for River Ridge Shopping Center at 800 Fairview Road. This motion was seconded by Councilman Myers and carried unanimously.

APPROVAL OF THE CONSENT AGENDA

11. The following items are of a routine nature and they have been previously reviewed by the members of the City Council. Therefore, by unanimous vote to approve these items, the City Council may, by the authority granted to the City Council in Ordinance No. 1008, adopt all of the items with one motion without the full reading and/or separate motion adopting each individual item. Upon the request of a citizen, a member of the City Council, and/or a member of the city staff, any single item scheduled for approval on the consent agenda may be considered separately.

A. Resolution No. 83-177 - Resolution authorizing the Asheville Chief of Police and the Data Processing Director to join with the Buncombe County Sheriff in signing the North Carolina Police Information Network user agreement.

Resolution Book No. 14 at page 174.

B. Resolution No. 83-178 - Resolution authorizing the Data Processing Director to sign the Asheville/Buncombe Regional Criminal Justice Information System user agreement with the Henderson County Sheriff's Department.

Resolution Book No. 14 at page 175.

2. R-5 Residential District

Change the maximum density level from 10 units/acre to 6 units/acre.

FISCAL IMPACT: None

K. Resolution No. 83-182 - Resolution of intent to close an unnamed alleyway between Ardmore Street and Seminole Street and calling a public hearing on the question for November 1, 1983.

HIGHLIGHTS: A petition has been filed by C. L. Robinson, Helen and Angelo Sakkas, and Wayside Nursery, Inc. requesting that the following unnamed alleyway be permanently closed to the public use. A public hearing has been scheduled for November 1, 1983. All provisions of 160A-299 will be complied with in the closing of this alleyway.

FISCAL IMPACT: None.

Resolution Book No. 14 page 179.

Upon motion of Councilman McDevitt, seconded by Councilman Pless, the consent agenda was unanimously approved.

REQUEST FOR REPORT FROM PERSONNEL ADVISORY COMMISSION

Vice-Mayor Price moved that the Council request a report from the City Personnel Advisory Commission relative to the police department by October 18, 1983, and that the report be given to members of Council during the pre-council meeting on October 18, 1983 at 2:00 p. m. This motion was seconded by Councilwoman Bratton and carried unanimously.

PETITION - LEFT TURN SIGNAL AT TUNNEL ROAD AND KENILWORTH KNOLL ROAD

As a matter of information the City Manager reported that he had received a petition from businesses in the Kenilworth Knoll Road area requesting that the City work with the state in requesting a left turn signal at the intersection of Tunnel Road and Kenilworth Knoll Road.

ACTION RELATIVE TO DISPOSAL (TIPPING) FEE ACCOUNT - COUNTY OF BUNCOMBE

The City Manager read the following letter:

September 29, 1983

Mr. Kenneth Michaelove, City Manager
City of Asheville
City Hall
Asheville, North Carolina 28807

Re: Disposal (Tipping) Fee Account

Dear Ken:
The City of Asheville's account for disposal fees of solid wastes at the County

G. Bids for hydraulic lift for Asheville Transit Authority

HIGHLIGHTS: Three (3) bids were received on September 19, 1983 for hydraulic lift for Asheville Transit Authority. Recommendation of acceptance of low bidder, Southern Pump and Tank Company in the amount of $11,535.00.

FISCAL IMPACT: Funding for this purchase is available. This purchase is part of an approved UMTA Project No. NC-05-0019-01.

H. Bids for bulk sodium chloride (rock salt) for snow and ice control.

HIGHLIGHTS: Three (3) bids were received for bulk sodium chloride (rock salt) for snow and ice control. Recommendation of acceptance of low bidder, Cargill Salt Company, at the unit price of $35.50 per ton, with an estimated 600 ton requirement.

FISCAL IMPACT: Sufficient funds for the purchase are available in the Public Works - Street Division appropriation.

I. Approval of sale of disposal parcels in the East Riverside Renewal Project.

HIGHLIGHTS: The Housing Authority has tentatively accepted the following bids for disposal parcels in the East Riverside Renewal Project:

Parcel	Reuse	Location	Price	Bid	Redeveloper
79	Residential	Ora Street	900	951	Gary & Louella McDaniels
105A	Residential	John Street	8,575	8,986	John Shafer
105E	Residential	John Street	7,050	7,150	Judy Morris
215	Residential	Hibernia Rd.	2,000	2,000	Herbert Maxwell

All of the above will be purchased under the Dollar-A-Lot Program.

FISCAL IMPACT: Upon completion, these properties will increase the City's ad valorem tax base by their assessed value.

J. Scheduling of public hearing relative to amending the Asheville Zoning Ordinance relative to mobile homes within the City's zoning jurisdiction for October 18, 1983.

HIGHLIGHTS: At its meeting of September 7, 1983, the Asheville Planning and Zoning Commission discussed the request made by City Council relative to mobile homes within the City's zoning jurisdiction. The following recommendations were adopted by the Commission:

1. Mobile Home Parks

   a. Increase the minimum lot size inside the park from 3,000 square feet to 5,000 square feet.

   b. Change the maximum density level from 8 units/acre to 6 units/acre.

RESOLUTION NO. 83-183 - RESOLUTION AMENDING AGREEMENT DATED SEPTEMBER 13, 1983 RELATIVE TO THE "WINDSWEPT VIEW" CONDOMINIUM PROJECT SITE PLAN

Consideration was given to a resolution amending agreement dated September 13, 1983, relative to the "Windswept View" condominium project site plan.

Patsy Brison, Staff Attorney, said the Council approved on September 13, 1983, Phase I of the site plan of the condominium project known as "Windswept View" condominiums located on an 8 acre site on Windswept Drive. The approval was contingent upon the execution of an agreement between the City, the developers, the property owner, and the Housing Authority concerning limitations upon the project and the building of a new road leading to the project. The agreement povides that construction shall not begin upon the project until the completion of the new road. Due to impending cold weather the developers find it necessary to proceed with the grading of the project and the pouring of footings before the completion of the new road. The developers have informed city officials that the new road can be used for all construction traffic from Ardmion Drive to Windswept Drive prior to completion of the road. This resolution will authorize an amendment to the agreement to all the developers to proceed with a portion of the construction prior to the completion of the new road described in the agreement dated September 13, 1983.

Upon motion of Councilman Myers, seconded by Councilman McDevitt, Resolution No. 83-183 was unanimously adopted.

Complete text of Resolution No. 83-183 will be found in Resolution Book No. 14 at page [redacted] 181

PROCLAMATION - FIRE PREVENTION WEEK - OCTOBER 9 - 15, 1983

Mayor Trantham proclaimed the week of October 9 - 15, 1983 as "Fire Prevention Week."

ADJOURNMENT

Upon motion of Councilman McDevitt, seconded by Vice-Mayor Price, the meeting adjourned at 7:15 p. m.

Ray M. Trantham
MAYOR

William F. Moloney
CITY CLERK

Transfer Station and County Landfill is now seven months in arrears and according to information furnished me by the County Finance Director, the City is now indebted to the County in the amount of $92,260.15.

The purpose of this letter is to make a final formal demand for the immediate payment of this delinquent account in the amount of $92,260.15 prior to October 5, 1983, or I shall institute legal proceedings to obtain judgment against the City for this indebtedness.

Very truly yours,

Keith S. Snyder
County Attorney

KSS: dgs
Enclosure: Statement of Account
cc: Honorable Roy M. Trantham, Mayor
City of Asheville
City Hall
Asheville, North Carolina 28807

William F. Slawter, Corporate Counsel
City of Asheville
City Hall
Asheville, North Carolina 28807

Councilwoman Frank moved to send a check to the County of Buncombe for the first quarter of this fiscal year along with a letter stating that this payment is made under protest and constitutes full payment of all obligations due to the County. This motion was seconded by Vice-Mayor Price and carried unanimously.

CLAIMS - JOHN HARRIN (WATER & SEWER) - ANITA MIDDLETON (PUBLIC WORKS) - CLETUS BAUER (WATER & SEWER) - ELMER BELLES (WATER & SEWER) - VIRGINIA YORK (PUBLIC WORKS)

LAWSUITS - ASHEVILLE HOUSING AUTHORITY - CONDEMNATION OF JACKSON MOORE PROPERTY
ASHEVILLE HOUSING AUTHORITY - CONDEMNATION OF JOHN CARTER BURGIN PROPERTY
ASHEVILLE HOUSING AUTHORITY - CONDEMNATION OF JAMES REYNOLDS PROPERTY
MARIAN B. WILLIAMS - PROPERTY DAMAGE (Water problems)

The City Manager presented claims received from John Harrin, Anita Middleton, Cletus Bauer, Elmer Belles, and Virginia York. He also presented summonses in connection with lawsuits involving the Asheville Housing Authority pertaining to condemnation of Jackson Moore property, condemnation of John Carter Burgin property, and condemnation of James Reynolds property; and Marian B. Williams pertaining to water damage.

Mayor Trantham referred the claims and lawsuits to the Corporation Counsel for investigation and recommendation.

ORDINANCE NO. 1398 - BUDGET ORDINANCE AMENDMENT TO PROVIDE FUNDING FOR THE ALBACORE SWIM TEAM

3. Consideration was given to a budget ordinance amendment to provide funding for the Albacore Swim Team.

The City Manager said members of Council were furnished copies of the ordinance and it would not be read in its entirety unless there was a specific request to do so.

Note: This budget amendment in the amount of $11,250 for the Albacore Swim Team, for sponsorship of which the Parks, Recreation, and Public Facilities Department has assumed responsibility.

Councilman Myers moved for the adoption of Ordinance No. 1398. This motion was seconded by Councilwoman Frank.

On a roll call vote of 7-0, Ordinance No. 1398 passed on first and final reading.

Complete text of Ordinance No. 1398 will be found in Ordinance Book No. 10 at page [redacted].70.

BIDS - PROTECTIVE CLOTHING -COATS AND TROUSERS - FIRE DEPARTMENT

4. Consideration was given to bids to furnish the Fire Department with protective clothing - coats and trousers.

The City Manager presented the bid recommendation stating that five responsive bids and two non-responsive bids were received on September 23, 1983. Recommendation of acceptance of low bidder Burgess Fire Department, for the Primary Bid in the amount of $27,433.00.

Chief Ball said the clothing meets all of OSHA requirements.

Councilman Myers moved to accept the bid of Burgess Fire Equipment, for the primary bid in the amount of $27,433.00. This motion was seconded by Councilman McDevitt and carried unanimously.

RESOLUTION NO. 83-184- RESOLUTION DIRECTING THE CITY CLERK TO INVESTIGATE A PETITION RECEIVED UNDER G. S. 160A-58.1 TO ANNEX A NON-CONTIGUOUS AREA ON U. S. 19-23 WEST (Ramada Inn on U. S. 19-23 West)

5. Consideration was given to a resolution directing the City Clerk to investigate a petition received under G. S. 160A-58.1 to annex a non-contiguous area on U. S. 19-23 West.

The Assistant City Manager read the resolution which stated that the owners of the property where the new Ramada Inn on U. S. 19-23 West will be located have petitioned the City of Asheville for satellite annexation.

Upon motion of Councilwoman Frank, seconded by Vice-Mayor Price, Resolution No. 83-184 was unanimously adopted.

Complete text of Resolution No. 83-184 will be found in Resolution Book No. 14 at page [redacted].182

Tuesday - October 11, 1983 - 4:00 p. m.

Regular Meeting

Present: Mayor Roy M. Trantham, Presiding; Vice-Mayor Norma T. Price; Councilwoman Mary Lloyd Frank and Wilhelmina Bratton; Councilmen Larry McDevitt; Joe Pless, and Gordon Myers; Corporation Counsel William F. Slawter; City Manager K. M. Michalove; Associate City Manager/City Clerk William F. Wolcott, Jr.; Staff Attorney Patsy Brison.

Absent: None

INVOCATION

The invocation was given by Councilwoman Wilhelmina Bratton.

APPROVAL OF THE MINUTES

1. Approval of the minutes of the October 4, 1983 meeting.

Upon motion of Vice-Mayor Price, seconded by Councilwoman Frank, the minutes of the October 4, 1983 meeting were unanimously approved as submitted.

PROCLAMATION - "PRISONER OF CONSCIENCE WEEK" - OCTOBER 15 - 22, 1983

Mayor Trantham proclaimed the week of October 15 - 22, 1983 as "Prisoner of Conscience Week." He said a copy of the proclamation would be sent to Ms. Lois Bernard since she could not be present at the meeting to accept the proclamation.

ORDINANCE NO. 1397 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED (Section 30-9-1- Signs)

2. Consideration was given to the second reading of Ordinance No. 1397, an ordinance amending Ordinance No. 322, known as "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," as amended amending Section 30-9-1 (C-10) - Signs - by deleting the words " 'A' frame or sandwich board" from the first sentence.

Mayor Trantham said this ordinance was previously read on first reading and would not be re-read in its entirety unless there was a specific request to do so.

On a roll call vote of 7-0, Ordinance No. 1397 passed on second reading.

Vice-Mayor Price moved to suspend the rules and proceed to the third reading of Ordinance No. 1397. This motion was seconded by Councilwoman Frank and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1397 passed on third and final reading.

Complete text of Ordinance No. 1397 will be found in Ordinance Book No. 10 at page 69.

At the request of Councilwoman Bratton, it was the consensus of Council to delay action on the resolution until more active support could be given to the fund-raising drive effort. She said the private community needs to get involved in this drive. She said she felt the fund raising drive is to closely related to the United Way fund raising campaign.

Vice-Mayor Price suggested that representatives from the YMI Cultural Center, Inc. be present when the resolution is adopted.

RESOLUTION NO. 83-186 - RESOLUTION AUTHORIZING THE UNC INSTITUTE FOR TRANSPORTATION RESEARCH AND EDUCATION TO DEVELOP A PAVEMENT MANAGEMENT SYSTEM FOR THE CITY OF ASHEVILLE

Consideration was given to a resolution authorizing the UNC Institute for Transportation Research and Education to develop a pavement management system for the City of Asheville.

The City Manager read the resolution stating that the UNC Institute for Transportation, Research and Education has agreed to develop a pavement management system for the City of Asheville at a cost not to exceed Ten Thousand Dollars ($10,000). He said in this agreement the Institute will have each street in the City of Asheville put on computer print-outs stating all details of a particular street.

Upon motion of Councilwoman Frank, seconded by Vice-Mayor Price, Resolution No. 83-186 was unanimously adopted.

Complete text of Resolution No. 83-186 will be found in Resolution Book No. 14 at page [redacted] 184

RESOLUTION NO. 83-187 - RESOLUTION RECOGNIZING THE WATER AND SEWER SERVICES DEPARTMENT AND THE STREET DIVISION FOR THEIR PARTICIPATION IN THE CITY SPONSORED RED CROSS BLOOD DRIVE HELD ON SEPTEMBER 1, 1983

Consideration was given to a resolution recognizing the Water and Sewer Services Department, and the Street Division for their participation in the City sponsored Red Cross Blood Drive held on September 1, 1983.

The City Manager read the resolution.

Upon motion of Councilwoman Frank, seconded by Councilman McDevitt, Resolution No. 83-187 was unanimously adopted.

Complete text of Resolution No. 83-187 will be found in Resolution Book No. 14 at page [redacted] 185

Mr. John Miall and Betsi Dickson, from the Management Services Department, presented plaques to the Water and Sewer Department and the Street Division for having the highest percentage of employees participating in the Blood Drive.

RESOLUTION NO. 83-185 - RESOLUTION DIRECTING THE CITY CLERK TO INVESTIGATE A PETITION RECEIVED UNDER G. S. 160A-58.1 TO ANNEX A NON-CONTIGUOUS AREA ON U. S. 25 (Black Forest Restaurant)

6. Consideration was given to a resolution directing the City Clerk to investigate a petition received under G. S. 160A-58.1 to annex a non-contiguous area on U. S. 25.

The Assistant City Manager read the resolution which stated that the owners of the Black Forest Restaurant on U. S. 25 have petitioned the City of Asheville for satellite annexation.

Upon motion of Councilwoman Bratton, seconded by Councilwoman Frank, Resolution No. 83-185 was unanimously adopted.

Complete text of Resolution No. 83-185 will be found in Resolution Book No. 14 at page 183

SCHEDULING OF PUBLIC HEARING - AMENDING ZONING ORDINANCE - SECTION 30-1-1 - ZONING ADMINISTRATOR

7. Vice-Mayor Price moved to schedule a public hearing relative to amending the Asheville Zoning Ordinance - Section 30-1-1, Zoning Administrator for October 25, 1983. This motion was seconded by Councilwoman Frank and carried unanimously.

SCHEDULING OF PUBLIC HEARING - AMENDING ZONING ORDINANCE - SECTION 30-9-3 (E. Schedule of Sign Requirements)

8. Vice-Mayor Price moved to schedule a public hearing relative to amending the Asheville Zoning Ordinance - Section 30-9-3 (E. Schedule of Sign Requirements) for October 25, 1983. This motion was seconded by Councilman McDevitt and carried unanimously.

RESCHEDULING COUNCIL MEETINGS OF NOVEMBER 1 AND NOVEMBER 8 FOR NOVEMBER 3 and NOVEMBER 10, 1983.

Vice-Mayor Price moved to reschedule the City Council meetings scheduled for Tuesday, November 1, 1983 and Tuesday, November 8, 1983 to Thursday, November 3, 1983 and Thursday, November 10, 1983 at 4:00 p. m. This motion was seconded by Councilman Myers and carried unanimously.

HAND-OUT OF GRAND OPENING - GREEN'S MINI MART - 414 DEPOT STREET

As a matter of information, the City Manager handed out a grand opening announcement of Green's Mini Mart at 414 Depot Street. He said Council was active in getting this business started.

RESOLUTION NO. _____ - RESOLUTION SUPPORTING THE FUND-RAISING DRIVE OF THE YMI CULTURAL CENTER, INC. OF WESTERN NORTH CAROLINA

Consideration was given to a resolution supporting the fund-raising drive of the YMI Cultural Center, Inc. of Western North Carolina.

The City Manager read the resolution stating that resolution encourages the community to support the YMI Cultural Center, Inc. by making financial donations to their capital fund drive.

CLAIMS - MRS. R. J. DILL (M & R WATER) - WM. SOUTHERN (M & R SEWER) - DONNA HAMLIN (MOTOR TRANSPORT) - CHARLES GUFFEY (M & R CITY WATER) - EVA REED (WATER DEPT.WIDE EXP) - MRS. GRADY ALLMAN (WATER DEPT. WIDE EXP) - BRUCE PAYNE (WATER DEPT. WIDE EXP)

LAWSUIT - HORACE BATES (PERSONAL INJURY)

The City Manager presented claims received from Mrs. R. J. Dill, Wm. Southern, Donna Hamlin, Charles Guffey, Eva Reed, Mrs. Grady Allman, and Bruce Payne.

The City Manager said the city was served with a summons in connection with the Horace Bates lawsuit involving a personal injury from a fall on sidewalk.

Mayor Trantham referred the claims and lawsuit to the Corporation Counsel for investigation and recommendation.

PROCLAMATION - FREEDOM WEEK, USA - OCTOBER 9 - 15, 1983

Mayor Trantham proclaimed the week of October 9 - 15, 1983 as "Freedom Week, USA."

RALPH BISHOP - COMMENTS RELATIVE TO HIS RIGHT TO ADDRESS COUNCIL

Mr. Ralph Bishop appeared before Council relative to his right to address Council during any Council meeting.

ADJOURNMENT

Upon motion of Councilman Pless, seconded by Councilman Myers, the meeting adjourned at 4:55 p. m.

Ralph M. Trantham
MAYOR

Warren F. Wescott
CITY CLERK

RESOLUTION NO. 83-188 - RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF ASHEVILLE TO ENTER INTO AN AGREEMENT WITH ZUCHELLI, HUNTER, AND ASSOCIATES, INC.

Consideration was given to a resolution authorizing the Mayor of the City of Asheville to enter into an agreement with Zuchelli, Hunter and Associates, Inc.

The City Manager read the resolution stating that this resolution was discussed, at length, during the pre-council meeting. He said this would extend the existing agreement with Zuchelli, Hunter and Associates, Inc. for another nine (9) months.

Upon inquiry of Vice-Mayor Price, the City Manager said the resolution would be contingent upon completion of the contract document to the satisfaction of the Corporation Counsel.

Vice-Mayor Price moved for the adoption of Resolution No. 83-188 contingent upon completion of the contract document to the satisfaction of the Corporation Counsel. This motion was seconded by Councilwoman Bratton and carried unanimously.

Complete text of Resolution No. 83-188 will be found in Resolution Book No. 14 at page [redacted]. 186

Councilman McDevitt noted that the funds to cover the fees and expenses of this contract will come from federal funds available in the Community Development Budget. He said no ad valorem or sales tax funds will be used for this contract.

ORDINANCE NO. 1399 - BUDGET ORDINANCE AMENDMENT TO PROVIDE AN APPROPRIATION FOR THE CONTINUATION OF THE PROPOSED ZUCHELLI, HUNTER, AND ASSOCIATES, INC. CONTRACT

Consideration was given to a budget ordinance amendment to provide for an appropriation for the continuation of the proposed Zuchelli, Hunter and Associates, Inc. contract.

The City Manager read the ordinance stating that this budget amendment will establish $110,500 from the Community Development Fund Budget to cover phase A and B of the Zuchelli, Hunter and Associates, Inc. contract.

Councilwoman Frank moved for the adoption of Ordinance No. 1399. This motion was seconded by Councilwoman Bratton.

On a roll call vote of 7-0, Ordinance No. 1399 passed on first and final reading.

Complete text of Ordinance No. 1399 will be found in Ordinance Book No. 10 at page [redacted] 71.

ANNOUNCEMENT OF BOB SMITH AS EXECUTIVE DIRECTOR OF ASHEVILLE-BUNCOMBE COUNTY COMMUNITY RELATIONS COUNCIL

Councilwoman Bratton, as liaison member of the Asheville-Buncombe County Community Relations Council, announced that the board unanimously agreed to employ Mr. Bob Smith as Executive Director for this Council.

Councilwoman Frank moved for the adoption of Ordinance No. 1400. This motion was seconded by Vice-Mayor Price.

On a roll call vote of 7-0, Ordinance No. 1400 passed on first reading.

RESOLUTION NO. _____ - RESOLUTION AUTHORIZING THE DEPARTMENT OF PUBLIC WORKS TO CHANGE A PORTION OF CLAIRMONT AVENUE BETWEEN GRACELYN GARDEN APARTMENTS ENTRANCE AND GRACELYN ROAD FROM ONE-WAY TRAFFIC TO TWO-WAY TRAFFIC

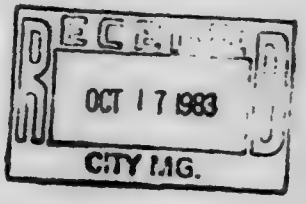
3. Further consideration was given to a resolution authorizing the Department of Public Works to change a portion of Clairmont Avenue between Gracelyn Garden Apartments entrance and Gracelyn Road from one-way traffic to two-way traffic.

Mayor Trantham said this matter was continued from the October 4, 1983 meeting.

Upon inquiry of Vice-Mayor Price, Clark Brown, Director of Public Works, said the City Manager has a report from the Traffic Engineer relative to traffic counts on Clairmont. He said the Public Works Department, at the direction of Council, will be looking into the feasibility of an access road into the Gracelyn Garden Apartments from Johnson Drive eliminating the need to go into Clairmont Avenue from the apartments. He said once the issue at hand is resolved by Council they will begin the feasibility study of the access road which would also include the cost involved for providing the access road.

Councilwoman Bratton said she had visited the area in question and would like for Council to explore the idea of an access road into the Gracelyn Garden Apartments.

The City Manager read the following report from Bob McDonald, Traffic Engineer:



MEMORANDUM TO: Ken Michalove
City Manager

FROM: Bob McDonald
Traffic Engineer

DATE: October 14, 1983

SUBJECT: Clairmont Avenue

Ken, I would like to respond to your request that we take several actions regarding traffic flow on Clairmont Avenue and also offer my observations and recommendation.

Tuesday - October 18, 1983 - 4:00 p. m.

Regular Meeting

Present: Mayor Roy M. Trantham, Presiding; Vice-Mayor Norma T. Price; Councilwoman Mary Lloyd Frank and Wilhelmina Bratton; Councilmen Larry McDevitt, Joe Pless, and Gordon Myers; Corporation Counsel William F. Slawter; City Manager K. M. Michalove; Associate City Manager/City Clerk William F. Wolcott, Jr.; Staff Attorney Patsy Brison.

Absent: None

INVOCATION

The invocation was given by Councilman Joe Pless.

APPROVAL OF THE MINUTES

1. Approval of the minutes of the October 11, 1983 meeting.

Upon motion of Councilwoman Frank, seconded by Councilman McDevitt, the minutes of the October 11, 1983 meeting were unanimously approved as submitted.

PUBLIC HEARING - AMENDING ZONING ORDINANCE - RELATIVE TO MOBILE HOMES

ORDINANCE NO. 1400 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED (Section 30-3-16.B.2(c)Section 30-3-16 B.2(k) - Section 30-5-6. (C)

2. A public hearing was held relative to amending the Asheville Zoning Ordinance relative to mobile homes within the city's zoning jurisdiction.

Mayor Trantham opened the public hearing at 4:10 p. m.

Verl Emrick, Director of Planning, said at the September 7, 1983 meeting of the Asheville Planning and Zoning Commission meeting a discussion was held relative to the request made by City Council relative to mobile homes within the City's zoning jurisdiction. The following recommendations were adopted by the Commission:

1. Mobile Home Parks - a. Increase the minimum lot size inside the park from 3,000 square feet to 5,000 square feet.

   b. Change the maximum density level from 8 units/acre to 6 units/acre.

2. R-5 Residential District - Change the maximum density level from 10 units/acre to 6 units/acre.

Mayor Trantham closed the public hearing at 4:13 p. m.

The City Manager said members of Council were furnished copies of the ordinance and it would not be read in its entirety unless there was a specific request to do so.

Larry Shelton, owner of Larry's Bug Barn at the corner of Clairmont and Merrimon Avenue, spoke in opposition to Clairmont being made a two-way street. He said the no parking sign located on Clairmont should not be so close to the intersection of Clairmont and Merrimon. He said he has no parking space at his business location and if the no parking sign is located close to the intersection his business would have to close.

The City Manager told Mr. Shelton that he would look into the matter regarding the placement of the stop sign.

George Brigman, owner of property on Clairmont, spoke in opposition to Clairmont being made a two-way street. He said one property owner on Clairmont has a fence on the edge of the curb which causes problems with the traffic on Clairmont. He said the fence should be moved back from the curb.

Mayor Trantham then called for a motion for adoption of the resolution. Receiving no motion for adoption of the resolution, the resolution failed.

Vice-Mayor Price moved that the Public Works Department be instructed to look into the feasibility of providing an accress drive into Gracelyn Garden Apartments from Johnson Drive and that this information be furnished to Council. This motion was seconded by Councilwoman Bratton and carried unanimously.

ACTION RELATIVE TO FIRE STATION #3 -LOUISIANA AVENUE

4. Mayor Trantham said action relative to the Fire Station #3 on Louisiana Avenue in West Asheville was discussed at the October 4, 1983 meeting said action being continued for two (2) weeks.

The City Manager requested that the following documents be included in the minutes; (1) Fire Chief Ball's recommendation relative to the reuse of Fire Station #3; (2) MICA Study recommendation # 35-36 dealing with fire stations; (3) City Manager's memorandum of July 6, 1983 relative to the reuse of fire station #3; (4) The report of July 1, 1983 from Sherman Pickard from the North Carolina League of Municipalities.

The City Manager also requested that Council adopt at some point in time a service level policy that would cause consideration of how and where to place fire stations and what response time the Council would expect in terms of service level. He said this policy could be used to locate stations and determine how many fire department employees are needed to respond and how quickly response time is expected..

Councilman McDevitt, repeating his motion of October 4, 1983, moved that this Council adopt as a matter of policy, that Fire Station Number 3 in West Asheville remain open and manned with personnel and equipment equal or similar to that currently in place. This motion was seconded by Councilwoman Bratton and carried unanimously.

The following documents are included as part of the minutes:

First, we have moved the "No Parking" sign on Clairmont as you requested. When I went by today, it appeared that it was not quite 50 feet from the intersection. I asked the sign section to check this again and move it if necessary. Also, your memorandum to Chief Hensley will hopefully, take care of enforcement of this restriction.

I also asked the Inspections Division to check the sight distance problem at Clairmont and Gracelyn. They advised me that there is a problem but the specific piece of property is for sale. The agent handling the sale has been notified of this situation and will contact the owners to have the problem corrected.

Traffic counts were taken this week at each end of Clairmont Avenue. The 24-hour count at the west end of Clairmont near Merrimon Avenue was 205 vehicles and the count at the east end near Gracelyn Road was 176 vehicles. I feel this volume is normal for a street such as this.

I have looked at the possibility of alternate access for Gracelyn Gardens, other than Clairmont Avenue. With the existing street configuration in the area and the degree to which surrounding property is developed, I cannot come up with anything better than what presently exists.

Finally, I would again like to apologize for my lack of communication with you regarding our recommendation. Our study, with the help of the Engineering Department, was to determine the minimum improvements which would be necessary to accomodate two-way traffic. This, however, was not our specific recommendation. Based on our findings to date, I would recommend that Clairmont Avenue remain a one-way street for the following reasons:

The street, as is, in my opinion can accomodate the present volume of traffic with minimum inconvenience to those using it;

A change to two-way traffic will not appreciably increase the capacity or "level of service" of the street;

Even with the widening, a potential for accidents on the requested two-way section will exist, due to limited sight distance at one point and inadequate shoulder width for vehicular maneuverability in an emergency;

Lack of majority support for a change to two-way traffic by those using the street on a daily basis.

Please let me know if I can provide any additional information.

CITY OF ASHEVILLE

FIRE DEPARTMENT
704/255-5334

[redacted] HALL
[redacted] FIRE DEPARTMENT

5) The change is in line with previous studies that have been made.

6) This change responds to some of the problems we are having with physical improvements needed in the Municipal Building.

7) The changes will improve the morale of employees.

One matter that will need to be considered with is not addressed is the [redacted]re annexation on Patton Avenue to I-40. However, my answer to this short [redacted] is to purchase a Mini-Pumper 2 man unit and put it at Station #6 until such [redacted] as the City can afford to construct a fire station near I-40.

Please advise me as to how to proceed and let me know if you have any [redacted]estions.

CITY OF ASHEVILLE

OFFICE OF
P.N. BALL
CHIEF FIRE DEPARTMENT

FIRE DEPARTMENT
704/255-5334

MEMORANDUM TO: Ken Michalove, City Manager

FROM: P. N. Ball, Fire Chief

DATE: January 13, 1983

SUBJECT: Recommendations for Improvements in Fire Department Operations

Attached hereto are two memorandums - one dealing with the redistribution of Fire Station #3 suppression personnel and equipment, the other dealing with the Fire Station #3 for central administration of Fire Department activities. The Fire Personnel housed at Station #3 will be relocated at different fire stations.

The county ambulance and personnel will be assigned by Mr. Jerry VeHaun, Director.

By making the changes recommended in these two memorandums, we will be accomplishing several long and short range goals:

1) We will be able to implement the phases of the Career Development Program in training, prevention and administration through the re-distribution of personnel. We have not been able to implement this phase of the program because the trainees were needed in fire suppression.

2) We can make the switch without loss of any employees.

3) We can make the switch without reducing service in the West Asheville area.

4) We can make the changes and improvements within our current budget, although some line items will have to be changed.

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CITY OF ASHEVILLE

FIRE DEPARTMENT
704/255-5334

[redacted] OF
P.[redacted]BALL
[redacted] FIRE DEPARTMENT

[redacted] January 13, 1983

[redacted]randum To: Mr. Ken Michaelove, City Manager

[redacted] Chief P.N. Ball

[redacted]ject: Utilization of Fire Substation #3

[redacted]e have discussed the possible uses of Fire Station #3 if it is no longer used as a fire [redacted]ergency center.

[redacted] properly renovated, this would be an excellent location for the Asheville Fire Depart-[redacted] Office of Administration. I recommend the following personnel to this location.

Fire Chief and executive secretary, Assistant Chief of Fire Prevention, Fire Pre-[redacted]ion Inspectors, Fire Prevention secretary, Assistant Chief of Fire Suppression, [redacted]sistant Chief of Administration, office assistants, Training Officer, Administrative [redacted]sistant, Arson Investigator.

I further recommend that Station 1 dormitory and day room be moved to the rear of the truck room, and the appropriate renovations be made.

These changes would consolidate the fire department operations into approximately ½ the space presently being used in the Municipal Building. This should be reflected in a reduced share of operating costs (heat, power, etc.).

I recommend that, for the present time, our fire alarm and mechanics operation remain at their present location.

Some of the advantages of relocating the administrative offices are:

1. Better utilization of space. Our present office area is not designed for efficiency in space use or energy conservation. If we properly redsign the interior of station #3, it can serve our needs very well. Energy and maintenance costs should be considerably reduced as compared to our present location.

2. Our office staff should be able to operate more efficiently with fewer unnecessary interruptions. Also, there is almost no security under the present arrangement. This would be completely controlled at the proposed location.

Station 1, (Headquarters) should house only 2 companies in the future. Fire Alarm could still be housed in the rear of the main floor as they are presently located.

P.O. Box 7148 • Asheville, North Carolina 28807

CITY OF ASHEVILLE

OFFICE OF
P.N. BALL
CHIEF FIRE DEPARTMENT

FIRE DEPARTMENT
704/255-5334

Date: January 13, 1983

Memorandum To: Mr. Ken Michaelove, City Manager

From: Chief P. N. Ball

Subject: Fire Substation #3

After study and reviewing the location – response effectiveness of Engine 3, located at Fire Station 3, 50 Oregon Avenue, I offer the following recommendations.

Close Fire Station #3, move Engine 3 to Station 6 (Haywood Road) and move Ladder 6 to Station 8 (Tunnel Road).. Station 6 and 8 will be two company stations.

Transfer an adequate number of personnel from District 2 to District 1 to staff Ladder 8 (change from Ladder 6).

This would leave nine engine companies and two aerial companies in service. When Ladder 2 is refurbished and returned to service, we should have Ladder 8 tested by National Testing and make repairs if required. This would still leave eleven companies in service.

At the time all aerial equipment is in service, retire one engine company, leaving eight engine companies and three aerial companies, still totaling eleven fire companies in service.

Mr. Gil Dunn, I.S.O. representative, has reviewed the proposal to close Station 3. Mr. Dunn stated that this will not be detrimental to our I.S.O. Class 3 rating.

Concerning the consideration and discussion of closing Station 1 – Headquarters Station, Mr. Dunn stated that this would definitely increase our I.S.O. rating considerably.

I recommend that the closing of Station 1 not to be considered.

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The Police Department has 14 authorized Telecommunicator positions. The Fire Department has 4 authorized positions.

Sixteen (16) positions will be authorized upon the communications consolidation. This will eliminate two (2) positions at an annual savings of at least $24,570.00) (includes salaries and fringe benefits)

CITY OF ASHEVILLE

FIRE DEPARTMENT
704/255-5334

OFFICE OF
P.N. BALL
CHIEF FIRE DEPARTMENT

Snorkel 1 has been relocated at Station #2, and probably will remain there at least until Ladder 2 is placed back in service.

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HEADQUARTERS

[redacted] = 1800 sq. ft. $18,054.00
[redacted] per sq.ft.)

$ 18,054.00	headquarters
36,395.00	Station 3
$ 54,449.00	
35,000.00	Budgeted
$ 19,449.00	Deficit

STATION #3, RENOVATION

Plumbing	$250.00 per fixture			
	Womens Rest room	$1,000.00		
	Kitchen	250.00		
	Seal floor drains	200.00		
		$1,450.00		$ 1,450.00
Glass	Clear 1" double pane	$4.30 Sq. ft.		
	Labor	2.00 " "		
.55/united inch insulation		2.00 sq. ft. labor		
6.50 sq. ft. reflective		2.00 sq. ft. labor		
Reflectives 8.50 sq.ft.				
Clear insulated 6.30 sq.ft.				
Rear of office		604.80		
front doors		1,512.00		
		2,116.80	*Insulation of windows in office would increase this amount.	2,116.80
Carpet				
3,308 Sq. ft. floor space ÷ 9 = 368 sq. yds x 13.95			5,133.60	5,134.00
Drop ceiling	2,030 sq.ft. x 2.00 sq.ft = 4,060.00			4,060.00
Insulation	2,030 x .18 sq.ft. = 365.40			365.00
Heating – Air condition	1.75 sq.ft.			
2,030 sq. ft. x 1.75 = $3,552				3,552.00
Electrical	.33/sq.ft. labor	$1151.04		
	.60/sq.ft. material	2302.08		
		3453.72		3,453.00
Floor tile (Kitchen)				
180 sq.ft. ÷ 9 = 20 sq. yds x 13.95 = 279.00				279.00
Labor	$2.00 sq.ft. $6,976			6,976.00
Partition construction – Material – & Labor – offices				
7.61/L: foot –x 123 = $936.00		936.00		
1168 block Block – inc. labor 2.50 per block		2,920.00		
		3,856.00		3,856.00
Painting	$2,000.00			2,000.00
Misc.	1.00 sq.ft. 3,453.12			3,453.12
			Total	$36,395.00

IMPACT: Implementation of this recommendation would result in reduction of two stations (stations 3 and 9). Savings in maintenance expenditures could be expected. In addition, station 3 could be sold, resulting in income to the City. The library/ community center with which station 9 presently shares physical plant facilities could be expanded.

Additional impacts which could be expected should the City implement this recommendation would reflect an increased level of service. Details appear further below under "Company Deployment" but in general could be described as additional personnel per company, utilization of dual engine companies in particularly high hazard or low water supply areas, and increased level of preparedness due to more proportional distribution of responses. (Some of the stations presently are relatively unprepared for a call because they seldom receive a call relative to other stations.)

Company Deployment

The chart below shows current company deployment.

Station	Engine Companies	Ladder Companies
1	2 single	2
2	1 single	0
3	1 single	0
4	1 single	0
5	1 single	0
6	1 single	1
8	1 single	0
9	1 single	0
Total	9 engine companies	3

STATION LOCATION AND COMPANY DEPLOYMENT

Overview

This section of the report reviews station location and company deployment for the City of Asheville's fire department. Also discussed under this section is staffing of the fire suppression division of the department.

Following a full review of existing conditions for each of these areas, analysis was undertaken and a series of alternative conditions were hypothesized. The project team evaluated each alternative in light of accepted standards for delivery of fire service and subsequently developed the recommendations found below.

Station Location

The Asheville Fire Department currently has eight fire stations. Each of these stations has a primary responsibility for its "first due" or fire management area (FMA). The companies from contiguous FMA's respond with, and assist one another. The location of these stations and their FMA's are shown on the following page (this does not include the annexed areas; however, they have been taken into account). Following this section, the report from James A. Milke on station location and company deployment has been included en toto as documentation.

RECOMMENDATION (35): The City should reduce the number of fire stations to six. This is identified as "plan F" on page 17 of the Fire Station Distribution Analysis.

Under this recommendation, district 1 would contain existing stations 1, 4, and 8. District 2 would contain existing stations 2, 5, and 6.

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7/6/83

MEMORANDUM TO: Members of City Council

P. N. Ball
Fire Chief

Sam Graves
Director of Management Services

FROM: Ken Michalove
City Manager

DATE: July 6, 1983

Attached is a report from Sherman Pickard, Director of Services for the North Carolina League of Municipalities regarding Fire Department reorganization and other concerns.

My recommendation is that we move as follows regarding the four specific concerns which were reviewed:

1. That the Fire Department Management Team and Chief conclude a recommendation within the next 60 days regarding the use of Station 3. Furthermore, that the City Council plan to take action on their recommendation by September 1. During this period of time, they should plan meetings with departmental staff and the West Asheville community to explain the various options and how fire fighting service would be provided using Station 6 for suppression purposes and Station 3 for administrative purposes. That during this period of time, they make it clear to the personnel that there is no plan to eliminate Engine 3. While there is no way to give each member of the staff written guarantee of this, I can assure that I have no plans of eliminating this engine company. (Note: See attachment 2).

2. On Concern No. 2 dealing with reorganization of the fire department, I concur with Sherman Pickard that we have a very good organizational approach, and we should stick with this.

3. On Concern No. 3, I concur with Sherman Pickard's analysis that three-man engine companies are appropriate for Asheville. However, on the matter of additional staffing beyond the three-man engine company, I think we should leave that to the Fire Department Management Team and Chief for their recommendations.

4. On Item 4, I concur with Sherman Pickard's analysis. I do feel that the City Council should establish a fire suppression service level policy. This is probably a policy that could be initially developed by the Fire Department staff, sent to the Planning Committee, and ultimately to the City Council.

KMM/cah

Attachment: (1) Report from Sherman Pickard
(2) Recommendation 6-30-83 from Fire Department Management Team to Chief Ball

Change in interstate system

Note: Station 4 is now station 7 but throughout most of the study it was referred to as station 4 and will continue to be referred to as such in this report.

RECOMMENDATION (36): Companies should be allocated among the six recommended stations in accordance to the chart below.

District 1	Engine Companies	Ladder Companies	Special Companies
Station 1	1 (two-piece)	1	0
Station 4	1	0	0
Station 8	1	0	1
District 2			
Station 2	1 (two-piece)	0	0
Station 5	1	0	0
Station 6	1 (two-piece)	1	0

Detroit #1

Note: Stations 1 and 2 should serve as district headquarters.

IMPACT: Implementation of this recommendation would result in optimum coverage relative to fire protection for the City. The use of two-piece engine companies at stations 1, 2, and 6 enables these companies to maximize water supply during the initial fire attack. Additionally stations 1 and 6 serve as "task forces" in their ability to respond with a two-piece engine company and a ladder company. This is important in that both stations cover significant commercial areas. This recommendation allows for additional manpower per company (see "Staffing"). Further, it allows the department to make best use of its equipment, e.g. assigning the 1250 GPM pumpers as the second engine, or supply pumper, to the two-piece engine companies. Having these pumpers "on the hydrant" will give a greater capacity for moving water.

(3) Company manning levels.

(4) The adequacy of aerial and other apparatus.

As a format for this report, each of the four concerns is identified, followed by the EXPRESSED CONCERN of several of those with whom we had contact. This is followed by what we perceive to be the FELT CONCERN, which often differs from the EXPRESSED CONCERN. Our analysis of each concern, along with our conclusions, complete the format.

REVIEW METHODOLOGY

We met with the "Fire Department Management Team", including the Chief and the three Division Chiefs for several hours at which time the concerns were discussed thoroughly. We next met with a group of selected personnel, including all ranks, for the purpose of soliciting feedback. The management team were also present in this meeting.

CONCERN 1 — The relocation of Engine 3 to Station 6 -- converting Station 3 to fire department administrative offices.

EXPRESSED CONCERN — A reduced level of fire suppression service in terms of run time within the first due area served by Station 3.

FELT CONCERN — We are of the opinion that the felt concern of the personnel is mainly related to what they perceive as a longer range plan to eliminate Engine 3, resulting in the loss of three Captain's positions, thereby dimin-

JUL 5 1983

NORTH CAROLINA LEAGUE OF MUNICIPALITIES

"75 Years of Service"

July 1, 1983

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Roy M. Trantham
Mayor, Asheville

TO: Mr. Kenneth M. Michalove

FROM: Sherman Pickard, Director of Services

SUBJECT: Fire Department Reorganization and Other Concerns

ADMINISTRATIVE REPORT

At your request, I visited the City of Asheville on the dates of June 14, 15 and 16, for the purpose of assisting in the review of certain concerns which have emerged as a result of the recently implemented fire department study as prepared by the Management Improvement Corporation of America, Durham, North Carolina.

From a review of articles which appeared in the Asheville newspaper and other communications which have flowed from some members of the fire department concerning parts of the reorganization study and other matters unrelated to the study, we identified four primary areas of concern:

(1) The planned transfer of Engine 3 to Station 6, converting Station 3 to fire department administrative offices.

(2) The new organizational structure and personnel assignment.

- We fully concur that Engine 3 can be relocated to Station 6, with a negligible diminution of fire suppression service within the first due area of Station 3. Of course, those properties throughout the City which enjoy the highest level of fire suppression service from the standpoint of apparatus "run time" are those which are located closest to a fire station. Obviously, a city cannot afford fire stations adjacent to everyone's property.

- We reviewed building fire location data for the year 1982 which occurred within the first due area of Stations 3 and 6. As noted on the map which you reviewed, for the year 1982 had Engine 3 been located at Station 6, properties west of Station 6 and, to some extent, south of Station 6 would have received a higher level of fire suppression service from the standpoint of "run time" for the SECOND due Engine 3.

- Given the structural deficiencies which exist with respect to Headquarters Fire Station and the inadequacy of administrative offices in that facility, we are of the opinion that Station 3 could well be utilized as administrative offices. The property may also lend itself to other municipal uses.

- It was expressed by some members of the "mixed group" that the area west of the French Broad River represents

ishing promotional opportunities. This concern is apparently based upon a previous experience which occurred in relation to a fire station which was closed on Merrimon Avenue some years ago. Based upon the feedback it appears that some of the personnel see the relocation of Engine 3 to Station 6 as a "repeat of history", since the Merrimon Avenue engine company was later disbanded.

ANALYSIS

It is perfectly understandable for personnel below the rank of Captain to be very much concerned with the possible elimination of three Captain positions. We were unable to determine, however, that any such plan exists.

CONCLUSION

- Station 3 is only 1.1 miles by road travel from Station 6. Even if the Insurance Services Office Fire Suppression Rating Schedule* is used as a guide for the location of fire stations, the travel distance from one station to another could be three miles with no loss of credits whatsoever. We hasten to point out that not many cities can afford to finance fire stations and fire companies sufficient in number to provide a maximum travel distance of three miles between stations throughout the City.

* [I.S.O. Fire Suppression Rating Schedule, 1980 issue - Item 560 - Page 22]

- Finally, with respect to fire station locations, some cities have found it advantageous for the governing body to establish a "fire suppression service level policy" in terms of initial attack capability [gallons of water per minute] within a specified "run time" of the first due engine. Such policies usually relate to population locations which, according to our experience, closely tracks building fire occurrence. This is a "policy guide" which the Council Council may wish to consider in the future.

one-third of the total area of the City and is a very high fire demand area. According to the fire department records for the year 1982, a total of 78 building fires occurred in the entire city. Of this number, only 17 or 22% occurred west of the river.

- Further, according to the Fire Department records, of the 78 building fires which occurred in 1982, 67 or 86% received first due engine service in four minutes or less.

- Of the 11 properties which received first due engine service beyond four minutes, 8 were within five minutes and 3 were within six minutes. No building fire occurred within the City in 1982 to which first due engine service was not provided within six minutes response time.

- When compared to cities of similar or much larger size, first due engine service within four minutes to 86% of all structural fires is a very high level of fire suppression service. In Durham, North Carolina, for example -- population 101,160 -- 311 building fires occurred in 1982. Of this number, 246 or 79% received first due engine service within four minutes or less. Of the 55 properties which received first due service beyond four minutes, 25 were within five minutes, 27 within six minutes, 12 within seven minutes and 1 within eight minutes.

Although not expressed, we suspect some "negative feelings" may exist toward one or more of the people who were promoted to the new position of District Commander.

(C) o We observed that some loss of personal "esteem" is felt with respect to abolishing the position title of "Fire Driver".

o We suspect, however, that a matter of more concern than that of position title is involved. Although not expressed, we strongly suspect that the expansion of promotional "competition" for previous "Fire Drivers" to the position of Captain from 33 to a possible 90 (an increase of 273%) is an influencing factor.

ANALYSIS

o The objective for dividing the City into two response districts with the attendant District Commanders has apparently been misunderstood by some members of the department. The objective for dividing the City into response districts is to provide a Chief Officer on the scene of a working fire where multiple company operations are involved in a shorter period of time than is possible when operating from a central station.

o A second objective, and one that is equally important, is to provide technical services with respect to fire

CONCERN 2 — The new fire department organizational structure and personnel assignment.

EXPRESSED CONCERN

(A) The previous structure consisting of three Fire Suppression Shift Officers [Assistant Chiefs] worked well.

(B) The six newly created positions of District Commander are not needed.

(C) Loss of position title of "Fire Driver", the duties of which are included in the newly created position of "Firefighter III".

(D) The rotation of personnel through the Fire Prevention Bureau as a part of the newly created career development program, thereby reducing the number of personnnel assigned to companies.

FELT CONCERN (A) & (B) According to the feedback which we received from the "mixed group meeting", there appears to be some concern about the additional "layer" in the chain of command which is represented by the District Commanders. This additional layer elongates the direct contact between the company officers and the "decision" level of authority represented by the Assistant Chiefs [Division Officers].

do so results in rumors, misinformation, and the polarization of feelings which could be avoided.

Given time, opportunity and effort, the newly implemented organizational structure will serve the City and the individuals within the organization well. A departmental attitude survey would probably support this conclusion.

code enforcement, training and related activities within a "manageable" area of the City.

- A third objective is to provide an effective communications conduit between the fire department management team and company personnel.

CONCLUSION

We are of the opinion that the reorganization plan which has been implemented is excellent. It would SEEM OBVIOUS that the additional promotional opportunities represented by the additional six positions of District Commander, the opportunity for all firefighters to ultimately aspire to the level of Firefighter III, the opportunity for career development within the organization represented by the Fire Prevention Bureau assignments, and the opportunity for professional development outside the organization represented by the available fill in personnel for that purpose, would meet with 100% approval of all personnel.

To reach such a conclusion would be presumptuous. It is very human for an individual to perceive organizational change from a PERSONAL POINT OF VIEW. It is perhaps asking too much of the "troops" to also view change from the standpoint of organizational goals. There is a need for establishing open line communications with all of those who may be affected by whatever change is contemplated. The failure to

total of eight company personnel on first alarm. While we fully recognize the concern for the delay in the arrival of second due engines and ladder service, it must be noted that a three-man engine company can mount an initial attack of 250 gallons of water per minute. Fires of this magnitude represent more than 95% of all structural fires which occur in the City. This statement is fully supported by fire department records.

- This is not to suggest that a fourth man on the engine would not be better from the standpoint of releasing the company officer to supervise the attack as opposed to making the attack. Company officers, however, are "firefighting" officers. The District Chiefs are "fireground commanders.".

- Regarding the matter of two company personnel rotating through the Fire Prevention Bureau as part of their career development objectives, it should be noted that two maintenance personnel were transferred to company assignment which nullified the reduction in company strength.

CONCLUSION

- Given the availability of a fourth person sometimes available on certain engine companies, we are of the opinion that this person should be assigned to the District Commander and thereby be available to provide whatever service he can on the fireground. This person should not be referred to as the "Chief's Driver".

CONCERN 3 — Company manning level.

EXPRESSED CONCERN

(A) Three-man engine companies.

(B) Loss of chief officer drivers which provided an additional pair of hands on the fireground.

(C) Assignment of personnel to rotate through the Fire Prevention Bureau as part of the career development program versus assignment to companies.

FELT CONCERN — We are of the opinion that the expressed concerns track the felt concern.

ANALYSIS

- According to the information which we were provided, the City of Asheville has utilized three-man engine companies since the year 1924. Thus, we can logically conclude that the reorganization has little or nothing to do with the matter of three-man engine companies.

- We concur with the expressed concern relative to the loss of the driver which was assigned to the chief officers and who was utilized on the fireground in the previous organizational structure. With regard to this matter, however, it should be noted that in the City of Asheville, like most other cities, a structural alarm receives a first alarm dispatch of two engine companies and, in some instances, a ladder company. This provides, in addition to the District Commander, a

CONCERN A — Adequacy of aerial and other apparatus.

EXPRESSED CONCERN

(A) The time required for refurbishing one of the aerial ladder trucks.

(B) The plan to replace an existing "full size" 1,000 GPM engine with a unit of 750 GPM on a commercial chassis. [A midi-pumper]

(C) The need for an adequately designed tanker as a support water supply in areas of the city deficient in hydrant distribution and/or available fire flow.

FELT CONCERN — We are of the opinion that the expressed concerns track the felt concerns.

ANALYSIS

(A) The extended delay in refurbishing an existing ladder truck is related to bid problems which occurred on the front end of the project. This matter will be solved with the return of the refurbished unit.

(B) An alternative to the down-sized midi-pumper would be to refurbish an existing full size custom 1,000 GPM pumper at approximately the same cost of the midi-pumper. We believe this alternative is worthy of consideration.

- An alternative would be to utilize two of the four people assigned to the ladder companies which respond only on selected alarms (and are seldom used) to the District Commanders for extra manpower on the fireground. This approach could be taken in conjunction with the utilization of other available personnel as previously discussed.

- We cannot recommend additional positions for the purpose of providing an extra "pair of hands" on the fireground. Fire experience records simply will not support this need.

Fire Department
CITY OF ASHEVILLE
NORTH CAROLINA

OFFICE OF

FIRE PREVENTION BUREAU

RECEIVED JUN 30 1983

DATE: June 30, 1983

MEMORANDUM TO: Chief P. N. Ball

FROM: Fire Department Management Team

SUBJECT: Fire Station 3

After meeting with Mr. Sherman Pickard of the League of Municipalities, and hearing the concern expressed by our employees that Station 3 should not be closed, we make the following recommendations.

1. We should study Mr. Pickards report when it is completed.

2. We should communicate with our personnel and explain whatever the report reveals. If Mr. Pickard recommends moving Engine 3 and using the building for administrative offices, we should explain the reasons to our personnel. If he recommends leaving everything status quo we should inform our personnel and follow the recommendations.

We should not take any action until steps 1 and 2 (above) have been completed. This probably means waiting 30 to 60 days before we make a final decision.

J. W. Parris, Asst. Chief

J. J. Causey, Asst. Chief

J. M. Jones, Asst. Chief

JWP/JJC/JMJ:ldh

On July 5, 1983 this was approved by Chief P. N. Ball.

(C) We concur that there is a need for an adequately designed tanker as a support water supply to the areas in which hydrant distribution is deficient and/or available fire flows are inadequate.

CONCLUSION

The provision of two first-line aerial apparatus, whether ladder or platform, and one in reserve is an adequate level of ladder service for the City of Asheville. No one with whom we had contact can remember ever having used three aerials on a single fire. In fact, the use of two simultaneously is very rare.

Refurbishing an existing full size pumper in lieu of a "down-sized" unit appears to be feasible.

The existing tanker should be evaluated in light of its intended use.

This report is respectfully submitted.

Sherman Pickard

Director of Services

Councilwoman Bratton said she supported the YMI Cultural Center project and was glad to be a part of the City Council which helped to get the Center started. She said the community should get behind the project and support the YMI Cultural Center and she would be offering her time and efforts toward the center and toward a YMI week. She said in her opinion the language of the proposed resolution and the manner and time in which it was presented was not in the interest in the "YMI" and therefore she would abstain from voting on the resolution. She stronly pointed out that the abstention was not against the "YMI" but the language, manner and time in which it was presented.

Vice-Mayor Price reminded Councilwoman Bratton that an "abstaining vote" is counted as an "aye" vote.

Upon motion of Councilman Pless, seconded by Vice-Mayor Price, Resolution No. 83-190 was adopted with Councilwoman Bratton "abstaining."

Complete text of Resolution No. 83-190 will be found in Resolution Book No. 14 at page [redacted]/88

APPROVAL OF THE CONSENT AGENDA

8. The following items are of a routine nature and they have been previously reviewed by the members of the City Council. Therefore, by unanimous vote to approve these items, the City Council may, by the authority granted to the City Council in Ordinance No. 1008, adopt all of the items with one motion without the full reading and/or separate motion adopting each individual item. Upon the request of a citizen, a member of the City Council, and/or a member of the city staff, any single item scheduled for approval on the consent agenda may be considered separately.

A. Sale of disposal parcels in the East Riverside Renewal Project.

HIGHLIGHTS: The Housing Authority has tentatively accepted the following bids for disposal parcels in the East Riverside Renewal Project.

Parcel	Reuse	Price	Bid	Redeveloper
33	Residential	3,100	3,100	Walter & Mildred Carson
219	Residential	1,000	1,000	Pearl Foster

Parcel 33 is located on S. Grove Street and is a "Dollar-a-Lot" sale and the purchasers plan a 3 bedroom, 2 bath residence.

Parcel 219 is located on Erskine Street and is a substandard lot being purchased by the adjacent owner in order to provide additional yard and driveway. No construction is planned, and the Dollar-A-Lot program does not apply.

FISCAL IMPACT: Upon completion, these properties will increase the city's ad valorem tax base by their assessed value.

REPORT RELATIVE TO REPEAL OF FLOOD PLAIN ORDINANCE

5. Mayor Trantham said a request was made by Attorney Jack Westall on October 4, 1983 for the repeal of the Flood Plain Ordinance. He said action was postponed on this matter until October 18, 1983.

Vice-Mayor Price, with the Council Planning Committee, said they have met with the TVA officials and property owners in the area. She said the Planning Committee will be meeting with the property owners and their attorney next week at which time Council will be given a report from the Planning Committee relative to the repeal of the Flood Plain Ordinance.

RESOLUTION NO. 83-189- RESOLUTION AUTHORIZING RENEWAL OF LEASE AGREEMENT IN CONNECTION WITH THE CITY'S GAS/OIL DISPENSING OPERATIONS

6. Consideration was given to a resolution authorizing renewal of lease agreement in connection with the city's gas/oil dispensing operations.

The City Manager said members of Council were furnished copies of the resolution and it would not be read in its entirety unless there was a specific request to do so.

Note: The Asheville City Council adopted Resolution 78-181, September 28, 1978 authorizing the City of Asheville to lease certain property at the corner of Valley Street and Southside Avenue for the purpose of operating a gas/oil dispensing facility. The lease agreement entered into contained provisions for renewing the lease for an additional five years commencing on November 1, 1983 and terminating on October 31, 1988. This resolution will authorize the renewal of said lease.

Upon motion of Councilwoman Frank, seconded by Councilman McDevitt, Resolution No. 83-189 was unanimously adopted.

Complete text of Resolution No. 83-189 will be found in Resolution Book No. 14 page 187

RESOLUTION NO. 83-190 - RESOLUTION SUPPORTING THE FUND-RAISING DRIVE ON THE YMI CULTURAL CENTER, INC. OF WESTERN NORTH CAROLINA

7. Consideration was given to a resolution supporting the fund-raising drive on the YMI Cultural Center, Inc. of Western North Carolina.

The City Manager said the resolution was read at the October 11, 1983 meeting and it would not be re-read in its entirety unless there was a specific request to do so.

The City Manager said Logan Delany, Director of Community Development, contacted Mr. Al Chilcott, HUD Area Office UDAG Representative on October 11, 1983, suggesting that a possible thirty (30) day contract extension may become necessary in order to complete raising the private funds agreed upon and in order to successfully complete and close-out the YMI-UDAG and Asheville's initial UDAG project. Mr. Chilcott's position appeared uncompromising as related to the current contract amendment date of October 31, 1983 as certified by the YMI, Asheville, and HUD. He said given that information the City should close out the project by October 31, 1983.

B. Scheduling a public hearing relative to rezoning property located at 18 Johnston Boulevard from R-3 Residential District to CH Commercial Highway District for November 10, 1983.

HIGHLIGHTS: The Asheville Planning and Zoning Commission at a meeting held September 7, 1983, considered the request of Dr. Stephen McHatton that Ward 6, Sheet 15, Lot 8, (18 Johnston Boulevard) be rezoned from R-3 Residential District to CH Commercial Highway District. After discussing the issues of this request, the Commission voted to recommend denial of this petition to City Council. The petitioner has appealed the decision of the Planning and Zoning Commission and has requested that Council schedule a public hearing on the rezoning.

FISCAL IMPACT: None

Upon motion of Vice-Mayor Price, seconded by Councilwoman Frank, the consent agenda was unanimously approved.

CLAIMS - MARY BUCKNER (STREETS) - MAUDE BENNETT (STREETS) - PAUL BOEHM (WATER) PAUL JONES (WATER) - BARRY RICH (M & R CITY WATER) - CLAUDIA TUCKER (SANITATION)

The City Manager presented claims received from Mary Buckner, Maude Bennett, Paul Boehm, Paul Jones, Barry Rich, and Claudia Tucker.

Mayor Trantham referred the claims to the Corporation Counsel for investigation and recommendation.

PROCLAMATION - WEEK OF NOVEMBER 7, 1983 - 25th ANNIVERSARY OF GERBER-ASHEVILLE PLANT

Mayor Trantham announced that the week of November 7, 1983, the Gerber-Asheville Plant will be celebrating its 25th Anniversary and is now located in the City of Asheville.

RALPH BISHOP - LOTTERY SALES

Ralph Bishop again appeared before Council relative to the lottery sales in the City of Asheville.

ADJOURNMENT

Upon motion, the meeting adjourned at 5:00 p. m.

MAYOR

CITY CLERK

That Section 30-9-3 (E. Schedule of Sign Requirements) be amended (Chart on Page 92 of Zoning Ordinance) as follows:

	MAXIMUM NUMBER OF SIGNS PERMITTED
Commercial Regional District - Free Standing	1 per lot
Wall Sign	1 per use

That "2. Central Business District" be added under 1. Commercial Regional."

He said this amendment would allow more than one sign for one building when there is more than one business in the building.

Mayor Trantham closed the public hearing at 4:17 p. m.

The City Manager said members of Council were furnished copies of the ordinance and it would not be re-read in its entirety unless there was a specific request to do so.

Councilman McDevitt moved for the adoption of Ordinance No. 1401. This motion was seconded by Councilman Myers.

On a roll call vote of 7-0, Ordinance No. 1401 passed on first reading.

ORDINANCE NO. 1400 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED (Section 30-3-16.B.2 (c) - Section 30-3-16 B.2(k) - Section 30-5-6. (C)

4. Consideration was given to the second reading of Ordinance No. 1400, an ordinance amending Ordinance No. 322, known as "An Ordinance Providing for the Zoning of the City of Asheville," as amended, relative to mobile homes within the City's zoning jurisdiction).

Mayor Trantham said this ordinance was previously read on first reading and would not be re-read in its entirety unless there was a specific request to do so.

On a roll call vote of 7-0, Ordinance No. 1400 passed on second reading.

SCHEDULING OF PUBLIC HEARING - SITE PLAN OF HAW CREEK VILLAS (TOWNHOUSES)

5. Councilman McDevitt moved to schedule a public hearing relative to the site plan of the proposed Haw Creek Villas (Townhouses) to be located on Haw Creek Circle for November 10, 1983. This motion was seconded by Vice-Mayor Price and carried unanimously.

SCHEDULING OF PUBLIC HEARING - REZONING PROPERTY LOCATED AT 341 EMMA ROAD

6. Councilman Myers moved to schedule a public hearing relative to rezoning property located at 341 Emma Road for November 15, 1983. This motion was seconded by Councilwoman Frank and carried unanimously.

Tuesday - October 25, 1983 - 4:00 p. m.

Regular Meeting

Present: Mayor Roy M. Trantham, Presiding; Vice-Mayor Norma T. Price; Councilwoman Mary Lloyd Frank and Wilhelmina Bratton; Councilmen Larry McDevitt, Joe Pless, and Gordon Myers; Corporation Counsel William F. Slawter; City Manager K. M. Michalove; Deputy City Clerk Carol Hensley.

Absent: Associate City Manager/City Clerk William F. Wolcott, Jr.

INVOCATION

The invocation was given by Councilman McDevitt.

APPROVAL OF THE MINUTES

1. Approval of the minutes of the October 18, 1983 meeting.

Upon motion of Vice-Mayor Price, seconded by Councilwoman Frank, the minutes of the October 18, 1983 meeting were unanimously approved as submitted.

PUBLIC HEARING - AMENDMENT TO ZONING ORDINANCE - SECTION 30-1-1 - ZONING ADMINISTRATOR

2. A public hearing was held relative to amending the Asheville Zoning Ordinance - Section 30-1-1, Zoning Administrator.

Mayor Trantham opened the public hearing at 4:12 p. m.

The City Manager presented the notice to the public setting the time and date for the public hearing.

Councilman Myers moved to continue the public hearing until Thursday, November 3, 1983, the next meeting of City Council, without further advertisement. This motion was seconded by Councilman Pless and carried unanimously.

PUBLIC HEARING - AMENDMENT TO ZONING ORDINANCE - SECTION 30-9-3 (E. SCHEDULE OF SIGN REQUIREMENTS)

ORDINANCE NO. 1401 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED

3. A public hearing was held relative to amending the Asheville Zoning Ordinance - Section 30-9-3 (E. Schedule of Sign Requirements).

Mayor Trantham opened the public hearing at 4:15 p. m.

The City Manager presented the notice to the public setting the time and date for the public hearing.

Marvin Vierra, of the Planning Department said the Asheville Planning and Zoning Commission at a meeting held in August recommended the following wording change to the Zoning Ordinance:

Councilwoman Frank moved for the adoption of Ordinance No. 1402. This motion was seconded by Councilman Myers.

On a roll call vote of 7-0, Ordinance No. 1402 passed on first and final reading.

Complete text of Ordinance No. 1402 will be found in Ordinance Book No. 10 at page 75.

RALPH BISHOP - COMMENTS RELATIVE TO PERSONNEL ADVISORY COMMISSION REPORT - RIGHT TO BE HEARD BY COUNCIL

Ralph Bishop appeared before Council commenting about a report given in Pre-Council relative to the Personnel Advisory Commission and the Police Department. He said all citizens have a right to be heard and to hear such reports and they should not be done in work sessions of Council.

ADJOURNMENT

Upon motion of Vice-Mayor Price, seconded by Councilwoman Bratton, the meeting adjourned at 4:30 p. m.

MAYOR

CITY CLERK

APPROVAL OF SIGN PERMITS - 94 WESTGATE PARKWAY - KYOTO JAPANESE STEAK HOUSE

The City Manager said Crawford Sign Company has applied for two sign permits to move an existing freestanding sign and add on to the freestanding sign and to erect a wall sign at 94 Westgate Parkway for the Kyoto Japanese Steak House. He said the sign permits meet all the requirements of the sign ordinance but requires approval from City Council in that the signs will be situated closer than 600' from a limited access highway, requiring the approval of Council pursuant to the Zoning Ordinance.

Mr. Mike Harrin, with Crawford Sign Company, explained to members of Council what type of signs will be erected.

Vice-Mayor Price moved for the approval of the sign permits for the Kyoto Japanese Steak House located at 94 Westgate Parkway. This motion was seconded by Councilman McDevitt and carried unanimously.

SCHEDULING OF PUBLIC HEARING - SITE PLAN OF CHATEAU CONDOMINIUMS- (ALBEMARLE ROAD)

Vice-Mayor Price moved to schedule a public hearing relative to the site plan of the proposed Chateau Condominiums to be located on Albemarle Road for November 10, 1983. This motion was seconded by Councilwoman Frank and carried unanimously.

CLAIMS - JOYCE DEWEESE (STREETS) - OSCAR DAVIS (POLICE) - RUTH DIGGES (SEWER) - ALVIN PEARSON (STREETS) - JIM THOMAS (SEWER)

LAWSUITS - JOEL B. LAWSON & SON, INC., AND EDWARD I. GREENE AND WIFE, JOYCE C. GREENE (WATER LINE BREAK)

The City Manager presented claims received from Joyce DeWeese, Oscar Davis, Ruth Digges, Alvin Pearson, and Jim Thomas.

The City Manager also said the city was served with a summons in connection with a lawsuit, in which the city is a third-party defendant, in the case of Joel B. Lawson & Son, Inc., and Edward I. Greene and wife, Joyce C. Green involving a water line break.

Mayor Trantham referred the claims and lawsuit to the Corporation Counsel for investigation and recommendation.

PROCLAMATION - UNICEF DAY - OCTOBER 31, 1983

Mayor Trantham proclaimed October 31, 1983 as "UNICEF Day."

ORDINANCE NO. 1402 - BUDGET ORDINANCE AMENDMENT - SEWER LINE IMPROVEMENTS FOR GROVE PARK INN EXPANSION

Consideration was given to a budget ordinance amendment relative to sewer line improvements for the Grove Park Inn expansion.

The City Manager read the ordinance explaining that this budget amendment, in the amount of $9,999, is to establish an appropriation for sewer line improvements for the Grove Park Inn expansion. The City, the County, and the Grove Park Inn are to share costs equally.

107 Evelyn Place
Asheville, North Carolina 28801

2.

November 3, 1983

Mayor Roy Trantham
Asheville City Council
Asheville, North Carolina

Dear Mayor Trantham and Members of City Council,

"America today stands poised on a pinnacle of wealth and power, yet we live in a land of vanishing beauty, of increasing ugliness, of shrinking open spaces, and of an over-all environment that is diminished daily by pollution and noise and blight. This, in brief, is the quiet conservation crisis of the 1960s." These words of Stewart L. Udall describe, two decades later, the plight of Asheville's close-in neighborhoods.

Property owners in the north Asheville neighborhood from Charlotte Street-Edwin Place intersection on the south to the end of Kimberly Avenue on the north, and to include side streets, present to Council a comprehensive plan for staying the erosion of a beautiful neighborhood and a large tax base for the city. Slums generate little tax revenue.

The initial step in our press for the survival of a quality neighborhood is TRAFFIC/NOISE CONTROL. Great volumes of traffic, including heavy equipment, commercial vehicles, and through trucks travel Edwin-Kimberly daily at whatever excessive speeds they wish, eroding the integrity of the area, depreciating property values, threatening the safety of our children and elderly, and generally consuming the quality of life with dirt and noise pollution.

Attached is a petition signed by three hundred twenty three (323) residents asking that the speed limit on Edwin Place, Evelyn Place and Kimberly Avenue be reduced to twenty-five (25). Griffing Blvd. signees also request the same speed limit for that street. A 25 speed limit appears wise for the entire R-1 district.

We ask that City Council honor the petition swiftly, that they enjoin Asheville Police Department to diligently and consistently enforce the new speed limit, the existing ordinance restricting through trucks, and the existing ordinance which prohibits recurring noise which would be a nuisance in a residential neighborhood. The latter includes faulty mufflers, motorcycles, indiscriminate use of horns, "scratching off," blasting car radios, and motorists hanging out windows yelling to other motorists, a not unusual 2 a.m. occurrence on our streets. We offer volunteers to help process citations at the Police Department if this will be helpful.

We further ask that Edwin-Kimberly and Charlotte-Evelyn-Kimberly be removed from city maps as throughways and that the Asheville Chamber of Commerce be duly informed of same. We ask that an exit ramp from the Asheville Expressway to Broadway be considered as a possible alternate route for north-bound traffic. The development of Broadway as a major artery would not threaten existing neighborhoods and

Thursday - November 3, 1983 - 4:00 p.m.

Regular Meeting

Present: Mayor Roy M. Trantham, Presiding; Vice-Mayor Norma T. Price; Councilwomen Mary Lloyd Frank and Wilhelmina Bratton; Councilmen Larry McDevitt, and Joe Pless; Corporation Counsel William F. Slawter; City Manager K. M. Michalove; Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Councilman Gordon Myers.

INVOCATION

The invocation was given by Vice-Mayor Norma T. Price.

APPROVAL OF THE MINUTES

1. Approval of the minutes of October 25, 1983 meeting.

Upon motion of Vice-Mayor Price, seconded by Councilman McDevitt, the minutes of the October 25, 1983 meeting were unanimously approved as submitted.

REQUEST OF NORTH ASHEVILLE RESIDENTS - REDUCTION OF SPEED LIMIT ON EDWIN PLACE, EVELYN PLACE, AND KIMBERLY AVENUE

2. Mrs. Barbara Molloy of 107 Evelyn Place introduced Mr. Gene Easterling of 200 Kimberly Avenue who presented the following petition and requests of the North Asheville residents relative to reducing the speed limits on Edwin Place, Evelyn Place, and Kimberly Avenue.

We, the undersigned Homeowners/residents, do hereby petition the Asheville City Council of Asheville, N. C. to reduce the speed limits in our residential neighborhoods as indicated below:

Evelyn Place from 30 miles per hour to 25 miles per hour.
Edwin Place from 35 miles per hour to 25 miles per hour.
Kimberly Avenue from 35 miles per hour to 25 miles per hour, except at the intersection of Edwin-Kimberly-Evelyn Streets which shall remain 20 miles per hour.

Signatures herewith affixed below on this and attached sheets.

	SIGNATURE	HOUSE NO	STREET	DATE
1	Eve Molloy	40	Christie K	10/26/83
2	Nancy Lemke	83	Evelyn Pl	10/26/83
3	Mrs. Kenneth Lee	40	Gertrude Pl.	10/26/83
4	Mrs. Catherine Gunther	40	Gertrude Pl	10-26/83
5	Clarence Gunther Jr	40	Gertrude Place	
6	Mrs W. A. Hailey	40	Gertrude Pl.	
7	Mrs L. A. Cummings	40	Gertrude Pl.	10-26-83
8	Mr. M. G. Cummings	40	Gertrude Pl.	10-26-83

I PARKS
Proposals to locate parks along the present artery to obstruct traffic flow have been made. When an alternate route for automobile traffic is planned, this attractive notion will be examined. If brought to fruition, the traffic nuisance would be permanently resolved for future generations - the area would remain one of the most desirable in Asheville.
Coordinator:

J. GROVE PARK-SUNSET ASSOCIATION, INC.
This group, relatively inactive for several years except for zoning matters, will be resurrected. General meeting and election of new officers will be accomplished within the next sixty (60) days.
President: Mac Day 76 Kimberly Avenue 252-7459

K. MEMBERSHIP
Every resident within the boundaries will be personally contacted and encouraged to become members. The organization will be in place when a crisis develops and will provide to the members ongoing cohesiveness and sense of neighborhood.
Coordinator:

L. PUBLICITY
Self explanatory
Coordinator: Fran Scovill 201 Kimberly Avenue 254-0490

M. LIAISON WITH LOCAL GOVERNMENT/COMMUNITY
We shall work with government officials and other groups to clarify and state our position, concerns and needs. We shall request representation in matters which affect the beauty, safety and integrity of our neighborhood. We offer assistance and cooperation to local municipal administration in helping us to achieve our goals.
Coordinator: Barbara A. Molloy 107 Evelyn Place 254-9108

Thank you for your gracious attention.

Barbara A. Molloy

Barbara A. Molloy
Neighborhood Representative

cc: Ken Michaelove, City Manager
Neighborhood Coordinators
The Asheville Citizen-Times
File

Attachments: Petition - 16 pages

would divert some of the traffic from Merrimon Avenue. This would also take the through traffic nuisance from the Historic Montford District.

If new regulatory signs are to be posted, we ask that we be consulted about design and location and that these signs be aesthetically and historically appropriate for the area.

In addition to A. TRAFFIC/NOISE CONTROL, our design for a quality neighborhood includes the following:

B. ALTERNATE ROUTE
Automobile traffic must be rerouted to a location that is acceptable to this neighborhood - we cannot trade one nuisance for another. Alternate routes will be explored and our recommendations made to the appropriate city officials.
Coordinator: Jeff Rackham 148 Edwin Place 252-0333

C. ORDINANCES
Study of city ordinances and how they affect the neighborhood has been necessary for organizational purposes. New ordinances may be necessary for the resolution of problems and the attainment of our goals.
Coordinator: John Corbisiero 23 Evelyn Place 258-8062

D. ZONING
Violations of the R-1 classification will not be accepted. Requests for zoning changes will be opposed.
Coordinator: Gene Easterling 200 Kimberly Ave. 254-4083

E. TREES
The recent installation of pipe line under the sidewalks on several streets has probably killed some of the handsome, mature trees. The probable tree loss destroys a portion of the beauty of these streets. With the cooperation of city administration and Quality Forward, replanting can be undertaken.
Coordinator: Tom Martin 2 Edwin Place 274-3042

F. STREET LIGHTS
Street lights erected when the neighborhood was built during the second decade of the 20th century were removed several years ago. Non-descript lamps are now in place. Efforts will be made to locate and return period lampposts to the streets. If this is impossible, reproduction lamps will be erected.
Coordinator:

G. NEIGHBORHOOD WATCH
Neighbors helping neighbors, complementing the protection provided by the Police Department, will increase the safety and desirability of the area.
Coordinator: Linda Sarubbi 33 Evelyn Place 254-0544

H. HISTORIC DISTRICT
Many properties of historical and/or architectural significance are located in the area developed by the pharmaceutical magnate and leading Asheville real estate developer, E.W. Grove. The William Jennings Bryan House, built in 1917, was entered in the National Register of Historic Places on June 23, 1983. The entire district should qualify for listing.
Coordinator:

MEMORANDUM TO: Ken Michalove
City Manager

FROM: Bob McDonald
Traffic Engineer

DATE: October 20, 1983

SUBJECT: Traffic concerns — Kimberly Avenue Area

Ken, I am aware of the concerns about traffic problems in this area.

With regard to your memo, I have current traffic counts on Charlotte Street at the Orchard Street intersection, between Baird and Hillside and between Hillside and Edwin Place. I want to get one additional count on Charlotte Street north of Edwin Place. I also have up-to-date counts on Kimberly Avenue. I need to get additional counts on Edwin Place and Evelyn Place, which I will do in the next few days.

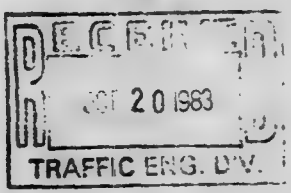
I will try to have this data available within a week to ten days.

Also, we will plan to take the counts again at these same locations once South Charlotte Street is opened for comparisn purposes.

RMcD/bl

Mr. Easterling also showed a map of the area in question.

Upon inquiry of several council members relative to the enforcement of the present speed limits on these streets and recent traffic counts in the area, the City Manager read the following memorandums;



MEMORANDUM TO: Bob McDonald, Traffic Engineer

FROM: Ken Michalove, City Manager

DATE: October 19, 1983

Bob, there is a growing concern about the amount of traffic and speeding traffic on Charlotte Street, Edwin Place, Evelyn Place, and Kimberly Avenue. In order to prepare for the types of questions I think that will come up regarding this, please plan to take some traffic counts on these streets if you do not already have current information. Also, there is a concern that once South Charlotte Street is opened up, this will increase the traffic even more in the areas mentioned above. Therefore, we need these traffic counts in order to make the comparisons once that street opens up. If you take your counts sometime over the next 4 to 6 weeks, I think that will be adequate.

KM:msm

CC: Mary Lloyd Frank
Councilwoman

**Report requested by 11/21/83

PROCLAMATION - "HUMANE SOCIETY AWARENESS MONTH" - NOVEMBER, 1983

Mayor Trantham proclaimed the month of November, 1983 as "Humane Society Awareness Month."

Mayor Trantham presented the proclamation to Ms. Denise Goodson.

PUBLIC HEARING - CLOSING OF UNNAMED ALLEYWAY BETWEEN ARDMORE STREET AND SEMINOLE STREET

RESOLUTION NO. 83-192 - RESOLUTION TO CLOSE AN UNNAMED ALLEYWAY BETWEEN ARDMORE STREET AND SEMINOLE STREET IN THE CITY OF ASHEVILLE, NORTH CAROLINA

4. A public hearing was held relative to closing an unnamed alleyway between Ardmore Street and Seminole Street in the City of Asheville, North Carolina.

Mayor Trantham opened the public hearing at 5:35 p.m.

The City Manager presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

The City Manager said in checking with all City department heads, there were no problems concerning the closing of this alleyway.

Upon inquiry of Mayor Trantham, the City Manager read the following memorandum from Larry Ward of the Public Works Department:

Mr. John Corbisiero of 23 Evelyn Place spoke in support of the petition. He said the high-density traffic in the area needs to deminish and he suggested that Council take action on the residents' requests.

Mr. Mack Day of 76 Kimberly Avenue, President of the Grove Park-Sunset Citizens Association, spoke in support of the petition.

Councilman Pless said he investigated this request this past week and in his opinion the speed limit now posted needs more enforcement and the "No Parking" restrictions in the area enforced.

Councilman McDevitt said it was his understanding that there was an ordinance on the books relative to the use of commercial vehicles in all areas of the city that could not be enforced. He said a new ordinance should be adopted. He also suggested that the present speed limits in the area are in need of stricter enforcement. He also suggested that Council set a policy on all speed limits with increased enforcement of same.

Mayor Trantham said the entire city should to be studied relative to speed limits.

Councilwoman Bratton said she appreciated the citizen input relative to the problems in the community.

After discussion, Vice-Mayor Price moved that the Asheville City Council support the requests of the North Asheville residents in reducing the speed limits on Edwin Place, Evelyn Place, and Kimberly Avenue to 25 MPH. This motion was seconded by Councilwoman Bratton and carried unanimously.

Upon inquiry of Mrs. Molloy, Council assured the resident that the speed limit of 35 MPH presently on Edwin Place, Evelyn Place, and Kimberly Avenue would be enforced during the next week.

The City Manager assured Council that an ordinance would be put on the agenda next week in considering reducing the speed limits in these areas.

RESOLUTION NO. 83-191 - RESOLUTION OF APPRECIATION TO CITY STAFF AND VOLUNTEERS FOR THEIR ASSISTANCE IN THE NORTH CAROLINA LEAGUE OF MUNICIPALITIES CONVENTION

3. Consideration was given to a Resolution of Appreciation to City staff and volunteers for their assistance in the North Carolina League of Municipalities Convention.

The City Manager read the resolution and recognized the City staff.

Upon motion of Vice-Mayor Price, seconded by Councilman McDevitt, Resolution No. 83-191 was unanimously adopted.

Complete text of Resolution No. 83-191 will be found in Resolution Book No. 14 at Page 189.

Mayor Trantham said had received a complaint from Mrs. Ledford in the Ardmore Place area relative to the garbage not being picked up in front of their house. He said if the residents are taxpayers they should not be required to carry their garbage one block in order for it to be picked up.

Councilman McDevitt agreed with Mayor Trantham.

Mr. Willard Lindberg, petitioner for the closing of the unnamed alleyway, said the alley had never been opened and it was only open on "paper."

Upon inquiry of Corporation Counsel Slawter, Mr. Lindberg said all property owners adjoining the unnamed alleyway had agreed to the closing.

Corporation Counsel Slawter advised Mr. Lindberg that proper affidavits needed to be submitted before the unnamed alleyway could be closed.

Mr. Slawter suggested that the resolution closing the unnamed alleyway be adopted contingent upon the execution of all necessary affidavits.

Mayor Trantham closed the public hearing at 5:46 p.m.

The City Manager said members of Council were previously furnished a copy of the resolution and it would not be read in its entirety.

Upon motion of Councilman McDevitt, seconded by Councilman Pless, Resolution No. 83-192 was unanimously adopted contingent upon the signing of all necessary affidavits.

Complete text of Resolution No. 83-192 will be found in Resolution Book No. 14 at Page 190-191.

PUBLIC HEARING - AMENDMENT TO ZONING ORDINANCE - SECTION 30-1-1 - ZONING ADMINISTRATOR

ORDINANCE NO. 1403 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE, "AS AMENDED"

5. A public hearing was held relative to amending the Asheville Zoning ordinance - Section 30-1-1, Zoning Administrator.

Mayor Trantham stated that this public hearing was continued from the October 25, 1983 meeting.

The City Manager said this proposed amendment will provide for the Planning Director to be designated as the Zoning Administrator of the City of Asheville. Councilman Pless said he had requested the delay in this public hearing. He said he had been assured by the Director of Inspections and the Planning Director that this change would not cause more confusion for citizens.

Mayor Trantham closed the public hearing at 5:49 p.m.

The City Manager stated that members of Council were furnished copies of the ordinance and it would not be read in its entirety.

Councilman Pless moved for the adoption of Ordinance No. 1403. This motion was seconded by Councilman McDevitt.

RECEIVED
NOV 2 1983
CITY MG.

MEMORANDUM TO: Ken Michalove
City Manager

FROM: Larry P. Ward
Director of Planning, Research and Development
Department of Public Works

DATE: November 2, 1983

Ken, in regard to Ardmore Place, off of Seminole Street, Ardmore is not a city maintained street, therefore closing would have no effect upon Public Works operations.

About a year ago, we received a petition from one of the residents along Ardmore, asking the City to accept and take the street over for maintenance. The petition was not valid, due to the fact that only a few of those persons owning property along the street had signed the petition. The remaining signatures were only persons who visited or used the street, and did not own property along it. The Petitioner was advised that the petition would need to be signed by more than 50% of the property owners along the street who must represent more than 50% of the lineal footage along the street before it would be a valid petition and could be accepted by the City. He was also given a list of the property owners along the street. We have not received a valid petition at this point.

At present, the street is in very bad condition and use of it by our garbage trucks is not safe for the equipment and operators, plus a large portion of the time the street is blocked by parked vehicles and the garbage truck cannot get on the street. Due to these problems the Sanitation Division has informed the residents that their refuse will have to be placed at the curb of Seminole Street before it can be collected by the City.

I talked to Mrs. Ledford Friday of last week and informed her of the above information. She asked why, when the City annexed the area, the street was not taken over by the City, and I explained to her that the street was not a State maintained street at that time, and the City only took the streets that N.C. D.O.T. had maintained prior to the area being annexed into the City. I also explained the petition situation to Mrs. Ledford.

LPW/bw

cc: T. C. Brown, Director of Public Works

On a roll-call vote of 6-0, Ordinance No. 1401 passed on third and final reading.

Complete text of Ordinance No. 1401 will be found in Ordinance Book No. 10 at page 74.

APPROVAL OF BILLIARD HALL APPLICATION - MR. WATSON AND MR. HAYNES

The City Manager presented an application for a billiard hall permit pursuant to Chapter 7 of the Code of Ordinances of the City of Asheville.

The City Manager said Chapter 7 of the Code requires that all billiard hall applications be approved by City Council.

After discussion, Councilwoman Frank moved to approve the billiard hall application for Mr. Watson and Mr. Haynes subject to the necessary inspections to issue said license. This motion was seconded by Councilwoman Bratton and carried unanimously.

REQUEST TO REPEAL CHAPTER 7 OF THE CODE OF ORDINANCES

At the request of the City Manager, Vice-Mayor Price moved to schedule for consideration, at the November 10, 1983 meeting, an ordinance to repeal Chapter 7 of the Code of Ordinances of the City of Asheville. This motion was seconded by Councilwoman Frank and carried unanimously.

RESOLUTION NO. 83-193 - RESOLUTION TO AUTHORIZE THE MAYOR TO SIGN ON BEHALF OF THE CITY OF ASHEVILLE AN OFFER TO NEGOTIATE WITH SCHNEIDER NINE, INC.

Consideration was given to a resolution to authorize the Mayor to sign on behalf of the City of Asheville an offer to negotiate with Schneider Nine, Inc.

The City Manager said Schneider Nine, Inc. proposes a downtown development plan and this resolution will authorize an Offer to Negotiate with said company.

Upon inquiry of Councilman McDevitt, the City Manager said this particular proposal has not been discussed by the Asheville Downtown Commission.

Councilman McDevitt said he felt the Asheville Downtown Commission should at least be aware of Council's action relative to Schneider Nine, Inc. before adoption.

Councilman McDevitt said he would be willing to vote in favor of the resolution if all members of the Downtown Commission were called tonight and told of this action.

Councilwoman Bratton moved for the adoption of Resolution No. 83-193 with the understanding that all members of the Asheville Downtown Commission would be called tonight relative to the resolution. This motion was seconded by Councilwoman Frank and carried unanimously.

Complete text of Resolution No. 83-193 will be found in Resolution Book No. 14 at page 192.

On a roll call vote of 6-0, Ordinance No. 1403 passed on first reading.

Vice-Mayor Price moved to suspend the rules and proceed to the second reading of Ordinance No. 1403. This motion was seconded by Councilman McDevitt and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1403 passed on second reading.

Vice-Mayor Price moved to suspend the rules and proceed to the third reading of Ordinance No. 1403. This motion was seconded by Councilwoman Frank and carried unanimously

On a roll call vote of 6-0, Ordinance No. 1403 passed on third and final reading.

Complete text of Ordinance No. 1403 will be bound in Ordinance Book No. 10 at Page 76, 77, and 78.

ORDINANCE NO. 1400 - AN ORDINANCE AMENDING ORDINANCE 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE" AS AMENDED - MOBILE HOMES WITHIN THE CITY'S ZONING JURISDICTION

5. Consideration was given to the third reading of Ordinance No. 1400, an ordinance amending Ordinance No. 322, known as "An Ordinance Providing for the Zoning of the City of Asheville" as amended (relative to mobile homes within the City's zoning jurisdiction).

Mayor Trantham said this ordinance was previously read on first and second reading and would not be reread in its entirety unless there was a specific request to do so.

On a roll call vote of 6-0, Ordinance No. 1400 passed on third reading.

Complete text of Ordinance No. 1400 will be found in Ordinance Book No. 10 at Page 72-73.

ORDINANCE NO. 1401 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE" AS AMENDED - SECTION 30-9-3 (SCHEDULE E OF SIGN REQUIREMENTS)

6. Consideration was given to the second reading of Ordinance No. 1401, an ordinance amending Ordinance No. 322, known as "An Ordinance Providing for the Zoning of the City of Asheville" as amended (Section 30-9-3 (Schedule E of sign requirements).

Mayor Trantham said this ordinance was previously read on first reading and would not be reread in its entirety unless there was a specific request to do so.

On a roll call vote of 6-0, Ordinance No. 1401 passed on second reading.

Vice-Mayor Price moved to suspend the rules and proceed with the third reading of Ordinance No. 1401. This motion was seconded by Councilman Pless and carried unanimously.

Thursday - November 10, 1983 - 4:00 p.m.

Regular Meeting

Present: Mayor Roy M. Trantham, Presiding; Vice-Mayor Norma T. Price; Councilwomen Mary Lloyd Frank and Wilhelmina Bratton; Councilmen Larry McDevitt, Gordon Myers, and Joe Pless; Corporation Counsel William F. Slawter; City Manager K. M. Michalove; Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: None.

INVOCATION

The invocation was given by Mayor Roy M. Trantham.

APPROVAL OF THE MINUTES

1. Approval of the minutes of November 3, 1983 meeting.

Upon motion of Councilman McDevitt, seconded by Councilman Pless, the minutes of the November 3, 1983 meeting were unanimously approved as submitted.

PRESENTATION OF "WHITE GLOVE AWARD" - SPURGEON CARTER

Susan Mayer, Executive Director of Quality Forward, said their organization is giving "White Glove Awards" for outstanding work in the City of Asheville. She said Mr. Carter works for the Parks and Recreation Department cleaning up around City Hall and sets a good example for a "White Glove Award."

Mr. Ray Kisiah, Director of Parks and Recreation, said Mr. Carter has been an employee of the Parks & Recreation Department for 23 years doing a super job for the City.

Mr. Kisiah said Mr. Don Jones of the Asheville City School System had nominated Mr. Carter for the "White Glove Award."

ORDINANCE NO. 1404 - AN ORDINANCE AMENDING SECTION 28-81.3 AND SECTION 28-81.4 OF ARTICLE 4, SPEED REGULATIONS, OF CHAPTER 28 OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE

1. Consideration was given to an ordinance amending Section 28-81.3 and Section 28-81.4 of Article 4, Speed Regulations, of Chapter 28 of the Code of Ordinances of the City of Asheville.

The City Manager read the Ordinance stating that this ordinance will add Edwin Place, Evelyn Place, and Kimberly Avenue to the 25 MPH restrictions in the City of Asheville.

The City Manager said the area would have increased surveillance for an undetermined period of time for the new speed limit zone.

Councilman McDevitt said the City staff is preparing a draft ordinance which will involve controlling trucks and traffic in the residential areas. He said this ordinance should be considered by Council in the near future and it is his hope that it would have an impact on Kimberly Avenue.

PETITION RELATIVE TO THE ADDITION OF BALLANTREE DRIVE, ELMWOOD LANE, GARDENWOOD LANE, AND GARDENWOOD DRIVE INTO THE CITY SYSTEM

The City Manager presented a petition received relative to the addition of Ballantree Drive, Elmwood Lane, Gardenwood Lane, and Gardenwood Drive into the City system.

The City Manager said the petition would be investigated and a report given to members of Council.

PROCLAMATION - NOVEMBER 6 - 12, 1983 - "PRAYER WEEK"

Mayor Trantham proclaimed the week of November 6 - 12, 1983 as "Prayer Week."

PROCLAMATION - "NATIONAL RADIOLOGY TECHNOLOGY WEEK" - NOVEMBER 7 - 13, 1983

Mayor Trantham proclaimed the week of November 7 - 13, 1983 as "National Radiology Technology Week."

CLAIMS - SUSAN ROBINSON (M & R CITY WATER) - RICHARD DEBBS (STREETS)

The City Manager presented claims received from Susan Robinson and Richard Debbs.

Mayor Trantham referred the claims to the Corporation Counsel for investigation and recommendation.

ANNEXATION OF THE CHUNNS COVE ROAD AREA

The City Manager said that he had received a telephone call from Mr. Tom West indicating that the Supreme Court had upheld the Chunns Cove Road area annexation by the City of Asheville.

RALPH BISHOP - LOTTERY SALES IN THE CITY OF ASHEVILLE

Ralph Bishop again appeared before the Council relative to the lottery sales in the City of Asheville.

ADJOURNMENT

Upon motion, the meeting adjourned at 6:30 p.m.

Ray M. Trantham
MAYOR

William F. Roberts
CITY CLERK

Mr. Winslow said the Committee recommended that 100% of the requested rate increase for installation be approved and 75% of the requested basic rate costs be approved.

Upon inquiry of Councilman Pless, Mr. Winslow said the American Cablevision Company indicated that 99.8% of the City residents may have cablevision services.

A discussion was held relative to cable TV service not being available in the Gashes Creek area.

Upon inquiry of Councilman McDevitt, Mr. Winslow said the Committee needed more definite guidelines and rate increase requests needs to be submitted to the Committee in advance giving the Committee an opportunity to review such requests.

Mr. Winslow said there was not a deadline for the City of Asheville in granting an increase; however, the County Commissioners deadline was November 15, 1983 for granting or disapproving a rate increase for the county cablevision companies.

Mr. Roger Gregg, a member of the Cable TV Study Committee, spoke in support of the requested rate increases of the cablevision companies.

Councilman Myers said the report stated that the cablevision companies had a "short fall" of $500,000.00 and the rate increase requested would provide $180,000.00. He asked how the companies intended to make up the difference of the "short fall." He said he felt the cablevision companies are in a profit-making business rather than a public service.

Mr. Don Williams, C.P.A. for American Cablevision Company, spoke in support of the requested rate increase.

Mr. Williams said the American Cablevision Company maintains a customer satisfaction log at the headquarters. He said the Asheville Cablevision Company takes exception to several of the findings of the Study Committee.

Mr. Williams, upon inquiry of Councilman Myers, said the rate increase would allow for the rebuilding of systems, new techniques, new systems, and cablevision expansion.

A discussion, initiated by Councilman McDevitt, was held relative to whether or not the cable companies should be regulated by the City of Asheville and the County of Buncombe.

Mr. Williams said that regulation of the companies provides no benefit to anyone. He said de-regulation would not be adverse to the cablevision customers.

Councilman Pless said that Thoms Cablevision Company, prior to the sale to American Cablevision Company, requested a rate increase lower than the increase presently requested.

After discussion, the Council members and Buncombe County Commissioners said they would review the report of the Cable TV Study Committee.

The report of the Cable TV Study Committee is attached.

ACC/BCBC 11/10

MINUTES OF A JOINT MEETING BETWEEN THE ASHEVILLE CITY COUNCIL AND THE BUNCOMBE COUNTY BOARD OF COMMISSIONERS FOR THE COUNTY OF BUNCOMBE, HELD ON THURSDAY, NOVEMBER 10, 1983 2:00 P.M.

A joint meeting between the Asheville City Council and the Board of Commissioners of Buncombe County was held on Thursday, November 10, 1983 at 2:00 P.M. in the Council Chambers - Asheville, North Carolina.

The meeting was called to order by Mayor Roy M. Trantham.

The following members were present:

Roy M. Trantham, Mayor of the City of Asheville
Norma T. Price, Vice-Mayor of the City Asheville
Councilman Larry McDevitt
Councilman Joe Dless
Councilman Gordon Myers
Councilwoman Mary Lloyd Frank

Doris P. Giezentanner, Buncombe County Commissioner
Jessie I. Ledbetter, Commissioner
J. D. Jackson, Commissioner

Also present:

K. M. Michalove, City Manager
William F. Slawter, Corporation Counsel
Patsy Brison, Staff Attorney
Richard Kendrick, Administrative Services Division Head
David Cunningham, Administrative Assistant - County of Buncombe
John Jerose, Manager of Asheville Cablevision
Members of the Cable TV Study Committee

Mayor Trantham said the purpose of this meeting is to discuss a report of the Cable TV Study Committee relative to cablevision in the City of Asheville and County of Buncombe.

Mr. Pete Winslow, Chairman of the Cable TV Study Committee presented members of Council and Buncombe County Commissioners with a report of the Committee.

Upon inquiry of Councilman McDevitt, Mr. Winslow said the Asheville City Council, pursuant to the franchise, ordinance may consider an increase in rates by the cablevision company every 18 months but Council was not required to approve a rate increase.

Upon inquiry of Councilman Myers, Mr. Winslow said the Committee did not address anticipated revenues for advertising by the cable companies.

Vice-Mayor Price said the report indicated that the vote of the Cable TV Study Committee was not unanimous in recommending a rate increase of $.75.

Mr. Winslow responded that several of the members felt a smaller rate increase would be worth considering.

RECOMMENDATIONS OF THE ASHEVILLE/BUNCOMBE COUNTY
CABLE TELEVISION COMMITTEE

REGARDING ASHEVILLE CABLEVISION'S RATE INCREASE APPLICATION

OCTOBER 27, 1983

RECOMMENDATIONS

1. Asheville Cablevision should be allowed to increase its rates up to the following maximum limits:(1)

Residential	From	To
Basic Subscriber Service	$8.90/month	$9.65/month
Installation of One Outlet -- Basic Service	16.50	20.00
Installation of One Outlet -- Basic Service, Cable Already in Residence	11.00	16.00
Additional Outlets	1.65/month each	2.00/month each
Installation of Additional Outlets	11.00/each	16.00/each
Relocation of Service	11.00/each	16.00/each
Reconnection Charge	11.00	16.00
Commercial		
Basic Subscriber Service	$8.90/month	$9.65/month
Additional Outlets	2.20/month each	3.00/month each

2. The rate increases should be effective January 1, 1984.(1)

3. No further rate increase should be granted for at least 18 months from the effective date of this recommended increase.(1)

4. Asheville Cablevision should be required to provide annual, audited financial statements to the Asheville City Council and the Buncombe County Board of Commissioners. A schedule of capital expenditures made each year should also be submitted. These reports should be presented to the governing bodies by March 31 of each year.

5. An independent company should be hired to do a study of Asheville Cablevision before any further rate increases are granted. The study should include, but not be limited to, a survey of Asheville Cablevision's

(1) The Committee voted in favor of these recommendations five to four. Voting for the recommendations were: David Cunningham, John Creighton, Roger Croy, Alan Meierhoefer, and Marvin Widdey. Voting against the recommendations were: Dennie Martin, Mary Ann McMahan, Glenn Snipes, and Peter Winslow.

PETER WINSLOW
ACCOUNTANT
SUITE 8 • BILTMORE PLAZA OFFICE BUILDING
ASHEVILLE, NORTH CAROLINA 28803
(704) 274-7742

MEMBER
NORTH CAROLINA SOCIETY OF ACCOUNTANTS
NATIONAL SOCIETY OF PUBLIC ACCOUNTANTS

PLEASE ADDRESS
MAIL TO
P.O. BOX 13332
ASHEVILLE, NC 28813

MEMORANDUM

TO: Roy H. Trantham
Mayor of the City of Asheville

Curtis Ratcliff
Chairman of the Buncombe County Board of Commissioners

City Council Members

Buncombe County Commissioners

FROM: Peter Winslow, Chairman
Asheville/Buncombe County Cable Television Committee

SUBJECT: Recommendations Relative to Applications for Increases in Cable Television Rates

DATE: October 27, 1983

Attached are the recommendations and findings of the Asheville/Buncombe County Cable Television Committee regarding the rate increase applications pending before the Asheville City Council and Buncombe County Board of Commissioners.

Roger Gregg, C.P.A., and I will be available to meet with you at your convenience concerning our report.

Peter Winslow

PW/l

Attachments

cc: Ken Michalove
City Manager

William F. Wolcott
Associate City Manager

Members of the Asheville/Buncombe County Cable Television Committee

7. Financial data presented was limited and unaudited. Asheville Cablevision has been in operation for less than a year. Consequently, justification for the rate increases resides primarily in the experience of Thoms Cablevision, and the need exists for on-going monitoring of Asheville Cablevision's financial status.

8. Adequate information does not exist concerning satisfaction of Asheville Cablevision subscribers with the service they receive. While complaint logs or files are kept by Asheville Cablevision, the City, and the County, no systematic effort has been made to assess what subscribers would like to receive from their cable television system.

9. Asheville Cablevision has committed to increase its profitability through promotion of its system to increase penetration (defined as the number of subscribers per cable mile) and expansion of the system.

10. There are no clear guidelines by which applications for rate increases can be judged. Among the guidelines used by the Committee were: comparisons of Asheville Cablevision's rates to rates charged by other cable television systems, comparisons of Asheville Cablevision's service to service provided by other cable television systems, assurance that Asheville Cablevision will make no more than a reasonable rate of return on its investment, assurance that a rate increase is necessary for Asheville Cablevision to maintain and improve service, and assurance that a rate increase is justified by system-wide needs. These guidelines, however, do not yield an exact rate increase figure. More specific criteria need to be developed for assessment of cable television system applications for rate increases.

Minority Findings

11. A minority finding of the Committee is that Asheville Cablevision offers fewer unduplicated basic service channels at greater cost than do other local systems, Sammons Communication and Crystal Clear Cable Television. Asheville Cablevision has FM radio service; Sammons and Crystal Clear do not. Sammons Communication, Inc. (which covers Black Mountain and Swannanoa) offers 16 unduplicated basic service channels for a monthly cost of $8.85 per month. Sammons has 125 miles of cable serving 4,078 customers (an average of 32.6 customers per cable mile). Asheville Cablevision offers 11 unduplicated basic service channels at its current rate of $8.90, Asheville Cablevision has 250 miles of cable serving 12,002 customers in the City of Asheville (an average of 48 customers per cable mile), and it has 100 miles of cable in the county serving 4,103 customers (an average of 41 customers per cable mile). Asheville Cablevision charges more than Sammons even though it has more customers total and more customers per cable mile than does Sammons. Crystal Clear Cable Television has 410 miles of cable serving 7,734 customers (an average of 18.86 customers per cable mile). It offers 12 unduplicated basic service channels at its current rate of $8.75. Crystal Clear is requesting a rate increase, though, which would put its basic service at $9.75 per month.

12. A minority finding of the Committee is that the rate increase granted to Asheville Cablevision is too high because the company is new and should prove itself before it receives a significant rate increase. Specifi-

subscribers to assess customer satisfaction with Asheville Cablevision's service and a survey of Asheville Cablevision's rates compared to other, similar systems.

6. The Asheville City Council and the Buncombe County Board of Commissioners should establish ground rules for their cable television committees by which the committees would judge rate increase applications.

FINDINGS

1. Thoms Broadcasting Companies, Inc., was granted its franchise by ordinance of City Council on August 3, 1967, pursuant to a referendum held July 28, 1967. The franchise is for a period of 35 years; it expires August 3, 2002. Buncombe County granted Thoms Broadcasting Companies a franchise for certain portions of the County on January 30, 1979. Thoms Broadcasting operated its cable television system under the name "Thoms Cablevision." The City's franchise was amended three times by ordinance of the City Council -- each time to increase rates charged by Thoms Cablevision. The rate increases were granted in January of 1976, September of 1977, and December of 1979. The County's franchise was amended once to increase cable television rates in March, 1980. On March 10, 1983, the City Council passed an ordinance permitting the Thoms company to transfer its franchise to American Cable TV Investors (which operates its cable television system locally under the name "Asheville Cablevision"). The Board of Commissioners took similar action on March 15, 1983. It is Asheville Cablevision which has applied for the rate increase under consideration.

2. Asheville Cablevision has had only one rate increase in the last five years. It was granted on December 20, 1979, and was effective January 4, 1980. Similar action to increase rates was taken by the County Board of Commissioners in March, 1980.

3. Significant increases in the Consumer Price Index have caused Thoms Cablevision's and its successor's, Asheville Cablevision, expenditures to rise faster than its revenues over the past three and one-half years. Had Thoms Cablevision and Asheville Cablevision been granted rate increases as the Consumer Price Index increased since January, 1980, Asheville Cablevision's basic subscriber rate would now be about $11.40 per month.

4. Asheville Cablevision maintains that its financial situation is such that the system may not be able to maintain current service levels if a rate increase is not granted. Specifically, cash flow is such that capital purchases needed to maintain and expand the system may be jeopardized. See attached schedule (Attachment A) of projected capital expenditures.

5. The recommended rate increases would add approximately $180,000 to Asheville Cablevision's revenue in their first year of application.

6. Asheville Cablevision's basic subscriber service is comparable to, if not better than, that provided by other, similar systems. No specific plans were presented by Asheville Cablevision for improving programming offered on basic service.

DANIELS
& ASSOCIATES INC.

Wendell Owen

September 21, 1983

Mr. John Jerose
Manager
Asheville Cablevision
172 Charlotte St.
Asheville, NC 28801

Dear John:

In response to the request from the City-County Cable Television Committee for Capital Expenditures to be spent in the Asheville system for additions to plant and equipment, we have projected the following:

1983	$886,783	Per Budget
1984	$587,400	Projected
1985	$655,600	Projected
1986	$610,240	Projected
1987	$672,500	Projected
1988	$704,600	Projected
1989	$786,700	Projected
1990	$975,400	Projected

As you know, the original projection for 1982 was $737,940, but due to additional necessary expenditures we increased the 1983 amount in order to accelerate the time schedule originally proposed.

Sincerely,

Wendell Owen
Vice President, Operations

WO/DL

2930 East Third Avenue
Post Office Box
Denver, Colorado
303/7[illegible]

cally, its claims of having better management, improved service for consumers, and a better long-term financial prognosis should be demonstrated before rates are raised.

13. A minority finding of the Committee is that financial losses claimed by Asheville Cablevision are not as severe as they appear. Two of the biggest loss items, in terms of effect on net income, are depreciation and amortization. Depreciation expenditures are expected to total $1,013,272 in 1983. Amortization expenditures are expected to total $375,183 in 1983. If depreciation and amortization were not included, net income would be positive in the amount of $527,772 for 1983. The assets of Asheville Cablevision will be depreciated over periods varying to 15 years, and depreciation expenditures will be higher in the early years and lower in the later years.

14. A minority question of the Committee is: are Buncombe County and City of Asheville subscribers being asked to unreasonably bear the costs of Thoms Cablevision's sale to American Cable TV Investors? Thoms Cablevision's interest expense in 1982 was $529,583. Asheville Cablevision's interest expense for 1983 is expected to be $749,311 — a $219,723 increase.

RESPECTFULLY SUBMITTED BY:

Peter Winslow, Chairman

David Cunningham, Vice-Chairman

CTV/1

2. The rate increases should be effective January 1, 1984.

3. Crystal Clear Cable Television should be required to provide annual, audited financial statements to the Buncombe County Board of Commissioners. A schedule of capital expenditures made each year should also be submitted. These reports should be presented to the governing body by March 31 of each year.

4. An independent consultant should be engaged to assist in the evaluation of any future rate increase requests.

5. The Buncombe County Board of Commissioners should establish ground rules for their cable television committee by which the committee would judge rate increase applications.

FINDINGS

1. Crystal Clear Cable Television has had no rate increases since it was granted its franchise on September 1, 1981.

2. Crystal Clear Cable Television has recently completed building its system. Therefore, it has limited opportunities for increasing its revenue through an increase in subscribers. In addition, it has saturated its market for extra services (services beyond basic service). Consequently, a rate increase is required in order for Crystal Clear Television to increase its revenues.

3. Crystal Clear Cable Television has experienced significant increases in major categories of expenditures, particularly materials and supplies, utilities, and vehicle maintenance and operation.

4. Crystal Clear Cable Television has a penetration rate (defined as the percent of homes passed by cable television which subscribe to cable television) of 55%. It has 410 miles of cable serving 7,734 customers (an average of 18.86 customers per cable mile). It offers 12 unduplicated basic service channels at its current rate of $8.75. By comparison, Asheville Cablevision has 250 miles of cable serving 12,002 customers in the City of Asheville (an average of 48 customers per cable mile), and it has 100 miles of cable in the county serving 4,103 customers (an average of 41 customers per cable mile). Asheville Cablevision offers 11 unduplicated channels of basic service. However, Asheville Cablevision provides FM radio service. While Asheville Cablevision's system passes 29,225 residences, Crystal Clear's system only passes about 14,000 residences. Based on this comparison, it is demonstrated Crystal Clear Cable Television has more miles of cable, but has the opportunity to serve fewer customers in its franchise area than does Asheville Cablevision.

5. It will be at least several years before Crystal Clear Cable Television begins to show profitability.

6. Crystal Clear Cable Television maintains that its financial situation is such that the system may not be able to maintain current service levels if a rate increase is not granted.

RECOMMENDATIONS OF THE ASHEVILLE/BUNCOMBE COUNTY
CABLE TELEVISION COMMITTEE

REGARDING CRYSTAL CLEAR CABLE TELEVISION'S RATE INCREASE APPLICATION

OCTOBER 27, 1983

RECOMMENDATIONS

1. Crystal Clear Cable Television should be allowed to increase its rates up to the following maximum limits:(1)

Type of Service	From	To
Basic Subscriber Service - First TV Set,	$ 8.75/month	$ 9.75/month
Installation of One Outlet - Basic Service	15.00	20.00
Installation or Relocation of an Additional Outlet - Basic Service, Cable Already Installed	10.00/each	15.00/each
Basic Subscriber Service - Each Additional Set	1.75/month	2.00/month
Reconnection Charge - Cable Exists for Same Subscriber at Same Address	10.00	12.50
Installation of Any Additional Service	15.00/set	15.00/set
Expanded Service with "Block" Converter	3.00/month per set	4.00/month per set ($1.50 extra will be charged subscribers with "remote" converters)
Bulk Rate for Basic Service in Apartment Buildings with More Than 4 Units	6.50/unit per month	7.50/unit per month
Home Box Office	8.50/per month per set	9.50/per month per set

Other Premium Pay TV Service to increase by $1.00 per month per set.

(1) The Asheville/Buncombe County Cable Television Rate Sub-Committee voted in favor of these recommendations three to two. Sub-Committee members voting for the recommendations were: David Cunningham, Roger Gregg, and John Creighton. Sub-Committee members voting against the recommendations were: Marvin Waddey and Alan Meierhoefer. The full Asheville/Buncombe County Cable Television Committee voted to accept the recommendations of the Sub-Committee five to one. Voting in favor of accepting the Sub-Committee's recommendations were: David Cunningham, John Creighton, Marvin Waddey, Alan Meierhoefer, and Roger Gregg. Voting against accepting the Sub-Committee's recommendations was Peter Winslow.

7. Crystal Clear Cable Television's basic subscriber service is comparable, if not better than, that provided by other, similar systems. No specific plans were presented by Crystal Clear Cable Television for improving programming offered on basic service.

8. Adequate information does not exist concerning satisfaction of Crystal Clear Cable Television subscribers with the service they receive. While complaint logs or files are kept by Crystal Clear and the county, no systematic effort has been made to assess what subscribers would like to receive from their cable television system.

9. Crystal Clear Cable Television has committed to increase its profitability through promotion of its system to increase penetration (defined as the number of subscribers per cable mile) and expansion of the system.

10. There are no clear guidelines by which applications for rate increases can be judged. Among the guidelines used by the Committee were: comparisons of Crystal Clear Cable Television's rates to rates charged by other cable television systems, comparisons of Crystal Clear Cable Television's service to service provided by other cable television systems, assurance that Crystal Clear Cable Television will make no more than a reasonable rate of return on its investment, assurance that a rate increase is necessary for Crystal Clear Cable Television to maintain and improve service, and assurance that a rate increase is justified by system-wide needs. These guidelines, however, do not yield an exact rate increase figure. More specific criteria need to be developed for assessment of cable television system applications for rate increases.

Minority Findings

11. A minority finding of the Committee is that Crystal Clear Cable Television should be granted no further rate increases for at least 18 months from the effective date of this recommended increase.

12. A minority finding of the Committee is that Crystal Clear Cable Television should not be granted any rate increases in excess of those permitted for Asheville Cablevision.

RESPECTFULLY SUBMITTED BY:

Peter Winslow, Chairman

David Cunningham, Vice-Chairman

CTV/2

tie into a storm drainage for the erosion control plan involving a rock wall sufficient to carry the drainage. This motion was seconded by Councilwoman Bratton and carried unanimously.

PUBLIC HEARING - SITE PLAN OF HAW CREEK VILLAS - HAW CREEK CIRCLE

A public hearing was held relative to the site plan of the proposed Haw Creek Villas (townhouses) to be located on Haw Creek Circle.

Mayor Trantham opened the public hearing at 5:57 p.m.

The City Manager presented the notice to the public, setting the time and date for the public hearing and the Affidavit of Publication.

Mr. Verl Emrick, Director of Planning, said the Asheville Planning and Zoning Commission at a meeting held October 5, 1983, reviewed the site plan of the proposed Haw Creek Villas (townhouses) to be located on Haw Creek Circle. The plan was prepared by Jan Wiegman, Architect for the Orchard of Black Mountain, Developer. After review and discussion of the plan, the Commission voted to recommend approval to City Council subject to compliance with the City's Erosion Control Ordinance.

Mr. Emrick said adjoining property owners were concerned about traditional low water pressure. He said the Water and Sewer Department had checked into the water pressure in the area and indicated that water is available.

He said the developers had indicated a willingness to install a pump for the first 12 units of the project and to install a 20,000 gallon reservoir before the second phase of the project is completed. He said the project meets all requirements of the Zoning Ordinance.

Mr. Jan Wiegman, developer of the project, spoke in support of approval and recommended that Council approve the project subject to whatever provisions are needed for the low water pressure problem.

Mayor Trantham closed the public hearing at 5:10 p.m.

After discussion, Councilwoman Frank moved for the approval of the site plan of the proposed Haw Creek Villas (townhouses) to be located on Haw Creek Circle, contingent upon a written letter from Mr. Wiegman relative to the installation of the water pumps and the reservoir. This motion was seconded by Councilman McDevitt and carried unanimously.

PUBLIC HEARING - REZONING PROPERTY LOCATED AT 18 JOHNSTON BLVD.

4. A public hearing was held relative to rezoning property located at 18 Johnston Blvd. from R-3, Residential District, to CH, Commercial Highway District.

Mayor Trantham opened the public hearing at 5:11 p.m.

The City Manager presented the notice to the public, setting the time and date for the public hearing and the Affidavit of Publication.

Mr. Verl Emrick, Director of Planning, said the Asheville Planning and Zoning Commission at a meeting held September 7, 1983, considered the request of Dr. Stephen McHatton that Ward 6, Sheet 15, Lot 8, (18 Johnson Blvd.) be rezoned from

Mr. Mac Day of the Sunset-Grove Park Citizens Association expressed appreciation on behalf of the Association for Council's adoption of this ordinance.

Councilman Pless moved for the adoption of Ordinance No. 1404. This motion was seconded by Councilwoman Bratton.

On a roll call vote of 7-0, Ordinance No. 1404 passed on first reading.

Mayor Trantham excused Councilman Myers from the meeting.

PUBLIC HEARING - SITE PLAN OF CHATEAU CONDOMINIUMS - ALBEMARLE ROAD

2. A public hearing was held relative to the site plan of the proposed Chateau Condominiums to be located on Albemarle Road.

Mayor Trantham opened the public hearing at 4:33 p.m.

The City Manager presented the notice to the public setting the time and date for the public hearing and the Affidavit of Publication.

Verl Emrick, Director of Planning, said the Asheville Planning and Zoning Commission at a called meeting on October 19, 1983 reviewed the site plan of the proposed Chateau Condominiums to be located on Albemarle Road. The site plan was submitted by Mr. Mike Byerly, agent for Delyn Shephard, developer, in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion of the plan, the Commission voted to recommend approval to City Council, subject to the following conditions: (1) final approval of the erosion control, to include an adequately secured easement for entry and maintenance of storm drainage to adjacent privately held lines; and (2) dedication of a 10-foot strip of property adjoining Albemarle Road to be recorded in the Register of Deeds Office of Buncombe County.

Mr. Emrick said there were problems involving the easement with the adjoining property owners. He said the dedication of the 10-foot strip has been satisfied and the easement would be recorded in the Register of Deeds Office.

Mr. Emrick said a letter had been received from Mrs. Howard West, an adjacent property owner, stating that an easement could not be given for the storm drainage system for several reasons.

Mr. Mike Byerly said an alternate erosion control plan has been developed in case the easement cannot be secured. He indicated that a 60-foot by 4-foot deep "dry well" could be installed.

Mr. Emrick suggested that the public hearing be continued until November 15, 1983, giving City staff an opportunity to contact the adjoining property owners relative to the storm drainage easement.

Mayor Trantham closed the public hearing at 5:56 p.m.

After discussion, Councilman McDevitt moved to approve the site plan of the Chateau Condominiums subject to the conditions outlined by the Planning and Zoning Commission. He further moved that condition number 1 provide for an alternative to

Upon motion of Councilwoman Frank, seconded by Vice-Mayor Price, Resolution No. 83-194 was unanimously adopted.

Complete text of Resolution No. 83-194 will be found in Resolution Book No. 14 at page 193.

CERTIFICATION OF PETITION TO ANNEX A NON-CONTIGUOUS AREA ON US 25

RESOLUTION NO. 83-195 - RESOLUTION FIXING DATE OF PUBLIC HEARING ON QUESTION OF ANNEXATION PURSUANT TO GS 160A-58.2, AS AMENDED, TO ANNEX A NON-CONTIGUOUS AREA ON US 25

8. The City Clerk certified a petition of the owners of the Black Forest Restaurant on US 25 to annex a non-contiguous area on US 25.

The City Manager said members of Council were previously furnished copies of the Resolution and it would not be read in its entirety. He said the public hearing on the annexation would be held on November 29, 1983.

Upon motion of Councilwoman Frank, seconded by Councilman McDevitt, Resolution No. 83-195 was unanimously adopted.

Complete text of Resolution No. 83-195 will be found in Resolution Book No. 14 at page 194.

Mayor Trantham turned the meeting over to Vice-Mayor Price.

RESOLUTION NO. 83-196 - RESOLUTION AUTHORIZING THE MAYOR TO SIGN ON BEHALF OF THE CITY OF ASHEVILLE AN AGREEMENT WITH SUTTON-KENNERLY AND ASSOCIATES, FOR PROFESSIONAL SERVICES ON THE PROJECT KNOWN AS "CIVIC CENTER REROOFING PROJECT"

10. Consideration was given to a resolution authorizing the Mayor to sign on behalf of the City of Asheville an agreement with Sutton-Kennerly and Associates for professional services on the project known as Civic Center Reroofing Project.

The City Manager said members of Council were previously furnished copies of the Resolution and it would not be read in its entirety.

Sutton-Kennerly and Associates, consulting engineers, is the chosen consultant for professional services for the Civic Center Reroofing Project and this Resolution will authorize the execution of the agreement.

Upon motion of Councilman McDevitt, seconded by Councilwoman Frank, Resolution No. 83-196 was unanimously adopted.

Complete text of Resolution No. 83-196 will be found in Resolution Book No. 14 at page 195.

RESOLUTION NO. 83-197 - RESOLUTION AUTHORIZING THE MAYOR TO SIGN ON BEHALF OF THE CITY OF ASHEVILLE AN AGREEMENT WITH SUTTON-KENNERLY AND ASSOCIATES, FOR PROFESSIONAL SERVICES ON THE PROJECT KNOWN AS MUNICIPAL BUILDING REPAIR PROJECT

11. Consideration was given to a resolution authorizing the Mayor to sign on behalf of the City of Asheville an agreement with Sutton-Kennerly and Associates for professional services on the project known as Municipal Building Repair Project.

R-3, Residential District, to CH, Commercial Highway District. After discussing the issues of this request, the Commission voted to recommend denial of this petition to City Council. He said the petitioner has appealed the decision of the Asheville Planning and Zoning Commission and has requested the Council hold a public hearing on the rezoning request.

Mr. Emrick said Dr. McHatton proposes to construct a dental office on the property.

Mr. Emrick said the Asheville Planning and Zoning Commission has dealt with the rezoning of this property on two other occasions.

Mr. Marvin Pope, Attorney for the petitioner, spoke in support of the rezoning. He said Dr. McHatton has a Contract for Purchase of the property contingent upon rezoning that would allow his professional office building to be constructed. He said Dr. McHatton had sent a letter to all the property owners in the area indicating what type of business would be put on the property. He said the responses from the letter indicated that the majority of the property owners in the area now approved of the dental office being constructed.

After discussion Councilman McDevitt moved to continue the public hearing until November 29, 1983, without further advertisement, referring the matter to the City staff indicating Council's interest in pursuing the rezoning in a legal and reasonable manner. This motion was seconded by Vice-Mayor Price and carried unanimously.

ORDINANCE NO. 1405 - AN ORDINANCE REPEALING CHAPTER 7 ("BILLIARD HALLS") OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE

6. Consideration was given to an Ordinance repealing Chapter 7, Billiard Halls, from the Code of Ordinances of the City of Asheville.

The City Manager said members of Council were previously furnished copies of the Ordinance and it would not be read in its entirety. He said this Chapter of the Code is out of date since Billiard Halls are regulated by the City of Asheville Revenue Ordinance.

Vice-Mayor Price moved for the adoption of Ordinance 1405. This motion was seconded by Councilman McDevitt.

On a roll call vote of 6-0 Ordinance 1405 passed on first reading.

CERTIFICATION OF PETITION TO ANNEX NON-CONTIGUOUS AREA - US 19-23 WEST

RESOLUTION NO. 83-194 - RESOLUTION FIXING DATE OF PUBLIC HEARING ON QUESTION OF ANNEXATION PURSUANT TO GS 160A-58.2, AS AMENDED, TO ANNEX A NON-CONTIGUOUS AREA ON US 19-23 WEST

7. The City Clerk certified a petition received by the owners of property where the new Ramada Inn on US 19-23 West will be located to annex a non-contiguous area on US 19-23 West.

The City Manager said members of Council were previously furnished copies of the resolution and it would not read in its entirety. He said the public hearing for the annexation will be held on November 29, 1983.

SCHEDULING OF PUBLIC HEARING - DESIGNATION OF HOUSING AUTHORITY AS A REDEVELOPMENT COMMISSION

Councilwoman Frank moved to set a public hearing to consider the Resolution designating the Housing Authority of the City of Asheville as a redevelopment commission for the downtown redevelopment projects for November 22, 1983, this motion was seconded by Councilman McDevitt and carried unanimously.

PETITION - FIRE HYDRANTS FOR VANCE CRESCENT EXTENSION

The City Manager presented a petition from residents and homeowners of Vance Crescent Extension in West Asheville requesting that a fire hydrant be installed on their street in the immediate future.

The City Manager said the petition would be presented to the Water Authority for investigation and recommendation.

CLAIMS - FLOSSIE ROBERTS (STREETS) - JOE MEADOWS (STREETS)

The City Manager presented claims received from Flossie Roberts and Joe Meadows.

Mayor Trantham referred the claims to the Corporation Counsel for investigation and recommendation.

SCHEDULING PUBLIC HEARING - REZONING PROPERTY ON HENDERSONVILLE ROAD AND SEMINOLE STREET

Councilwoman Frank moved to schedule a public hearing relative to schedule the rezoning of property on Hendersonville Road for Mr. Willard Lindberg, from R2, Residential District to CH, Commercial Highway District, for November 29, 1983. This motion was seconded by Councilwoman Bratton and carried unanimously.

SCHEDULING PUBLIC HEARING - REZONING PROPERTY LOCATED ON FAIRVIEW ROAD AT RIDGECREST ROAD AND HILLDALE

Councilwoman Frank moved to schedule a public hearing relative to rezoning property at Fairview Road at Ridgecrest Road and Hilldale from R3, Residential District, to CG, Commercial General District for November 29, 1983. This motion was seconded by Councilwoman Bratton and carried unanimously.

RESOLUTION NO. 83-199 - RESOLUTION AUTHORIZING THE MAYOR TO SIGN ON BEHALF OF THE CITY OF ASHEVILLE A CONTRACT WITH RUCKMAN BROTHERS, INC. FOR THE PROJECT KNOWN AS THE FALL 1983 DIRT ROAD PAVING PROGRAM

Consideration was given to a resolution authorizing the Mayor to sign on behalf of the City of Asheville a contract with Ruckman Brothers, Inc. for the project known as the The Fall 1983 Dirt Road Paving Program.

The City Manager read the Resolution stating that this contract would also cover the gravel portion of Ardimon to Windswept in connection with the "Windswept Views" condominium project.

Upon motion of Councilman McDevitt, seconded by Councilwoman Frank, Resolution No. 83-199 was unanimously adopted.

The City Manager said members of Council were furnished copies of the Resolution and it would not be read in its entirely.

Sutton-Kennerly and Associates, consulting engineers, is the chosen consultant for professional services for the Municipal Building Repair Project and this Resolution will authorize the execution of the agreement.

Upon motion of Councilman McDevitt, seconded by Councilwoman Frank, Resolution No. 83-197 was unanimously adopted.

Complete text of Resolution No. 83-197 will be found in Resolution Book No. 14 at page 196.

RESOLUTION NO. 83-198 - RESOLUTION TO AUTHORIZE ZUCHELLI, HUNTER AND ASSOCIATES, INC., TO PROCEED UNDER THEIR CONTRACT WITH THE CITY WITH REGARD TO PROJECT C, THE PROJECT PROPOSED BY SCHNEIDER NINE, INC.

Consideration was given to a resolution to authorize Zuchelli, Hunter and Associates, Inc. to proceed under their contract with the City with regard to project "C," the project proposed by Schneider Nine, Inc.

The City Manager read the Resolution.

He said the City Council of the City of Asheville, by adoption of this Resolution, approves the general outline of the project as presented by Schneider Nine, Inc. and authorizes Zuchelli, Hunter and Associates to proceed under the terms and conditions of its contract with the City with regard to this project.

Upon motion of Councilwoman Bratton, seconded by Councilwoman Frank, Resolution No. 83-198 was unanimously adopted.

Complete text of Resolution No. 83-198 will be found in Resolution Book No. 14 at page 197.

ORDINANCE NO. 1406 - BUDGET ORDINANCE AMENDMENT TO PROVIDE APPROPRIATION TO COVER "BASE COST" FOR ZHA AGREEMENT SYSTEM

Consideration was given to a budget ordinance amendment to provide an appropriation to cover "base cost" for ZHA agreement and bring total funding to the total approved appropriation of $291,000 per the agreement.

The City Manager said this budget amendment would put $45,500 from Community Development in the budget to pay for the activities of this project.

Councilwoman Frank moved for the adoption of Ordinance No. 1406. This motion was seconded by Coumcilwoman Bratton.

On a roll call vote of 5-0, Ordinance No. 1406 passed on first and final reading.

Complete text of Ordinance No. 1406 will be found in Ordinance Book No. 10 at page 81.

Tuesday - November 15, 1983 - 4:00 p.m.

Regular Meeting

Present: Mayor Roy M. Trantham, Presiding; Councilwomen Mary Lloyd Frank and Wilhelmina Bratton; Councilmen Larry McDevitt, and Gordon Myers, Corporation Counsel William F. Slawter; City Manager K. M. Michalove; Associate City Manager/ City Clerk William F. Wolcott, Jr.

Absent: Vice-Mayor Norma T. Price and Councilman Joe Pless

INVOCATION

Councilwoman Frank introduced Ben Thrash, a fourth grade student at Ira B. Jones School, who gave the invocation.

APPROVAL OF THE MINUTES

1. Approval of the minutes of November 10, 1983 meeting.

Upon motion of Councilwoman Frank, seconded by Councilman Myers, the minutes of the November 10, 1983 meeting were unanimously approved as submitted.

PUBLIC HEARING - REZONING PROPERTY LOCATED AT 341 EMMA ROAD

ORDINANCE NO. 1407 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE" AS AMENDED

2. A public hearing was held relative to rezoning property located at 341 Emma Road.

Mayor Trantham opened the public hearing at 4:05 p.m.

The City Manager presented the notice to the public, setting the time and date for the public hearing and the Affidavit of Publication.

Verl Emrick, Director of Planning, said the Asheville Planning and Zoning Commission, at a meeting held October 5, 1983, considered the petition of Mr. Allen H. Moss that Ward 6, Sheet 37, Lot 7, be rezoned from LI, Light Industrial District, to R,-5, Residential District. After review and discussion, the Commission voted to recommend to City Council that the property be rezoned.

Mr. Emrick said the petitioner proposes to construct a 12-unit apartment complex, which requires that the property be rezoned to R5, Residential District. He said this project would be required to go through the Group Development review process.

Mayor Trantham closed the public hearing at 4:09 p.m.

The City Manager said members of Council were previously furnished copies of the Ordinance and it would not be read in its entirety.

Councilwoman Frank moved for the adoption of Ordinance No. 1407. This motion was seconded by Councilman Myers.

Complete text of Resolution No. 83-199 will be found in Resolution Book No. 14 at page 198.

REQUEST OF COUNCILMAN MCDEVITT RELATIVE TO REPLACEMENT OF KILLIAN ROAD BRIDGE

Councilman McDevitt requested that the City Manager inform him as to when the replacement of Killian Road Bridge is to be scheduled. He also requested the schedule for other bridge projects. He said it would be his request that the Killian Road Bridge replacement be scheduled at the end of the bridge program.

ADJOURNMENT

Upon motion, the meeting adjourned at 6:30 p.m.

MAYOR

CITY CLERK

ORDINANCE NO. 1405 - AN ORDINANCE REPEALING CHAPTER 7 ("BILLIARD HALLS") OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE

4. Consideration was given to the second reading of Ordinance No. 1405, an ordinance repealing Chapter 7 ("Billiard Halls") of the Code of Ordinances of the City of Asheville.

Mayor Trantham said this Ordinance was previously read on first reading and would not be reread in its entirety unless there was a specific request to do so.

On a roll call vote of 5-0, Ordinance No. 1405 passed on second reading.

Councilwoman Bratton moved to suspend the rules and proceed to the third reading of Ordinance No. 1405. This motion was seconded by Councilwoman Frank and carried unanimously.

On a roll call vote of 5-0, Ordinance No. 1405 passed on third and final reading.

Complete text of Ordinance No. 1405 will be found in Ordinance Book No. 10 at page 80.

ORDINANCE NO. 1408 - BUDGET ORDINANCE AMENDMENT TO PROVIDE COMMUNITY DEVELOPMENT CONTRIBUTIONS TO DOWNTOWN PROJECT

5. Consideration was given to a budget ordinance amendment to provide Community Development contributions to the Downtown Project.

The City Manager said the members of Council were furnished copies of the Ordinance and it would not be read in its entirety unless there was a request to do so.

This budget amendment is to reprogram Community Development funds in the amount of $171,000 to the Downtown Project. The total appropriation for consulting services for the Downtown Project is budgeted in the General Capital Projects Fund.

Ralph Bishop spoke in opposition to the Ordinance and any downtown project.

Councilwoman Frank moved for the adoption of Ordinance No. 1408. This motion was seconded by Councilman Myers.

On a roll call vote of 5-0, Ordinance No. 1408 passed on first and final reading.

Complete text of Ordinance No. 1408 will be found in Ordinance Book No. 10 at page 83.

APPROVAL OF DISPOSAL PARCEL 96-A IN THE EAST RIVERSIDE RENEWAL PROJECT

7. Consideration was given to approval of the sale of Disposal Parcel 96-A in the East Riverside Renewal Project.

On a roll call vote of 5-0, Ordinance No. 1407 passed on first reading.

Councilwoman Bratton moved to suspend the rules and proceed to the second reading of Ordinance No. 1407. This motion was seconed by Councilwoman Frank and carried unanimously.

On a roll call vote of 5-0, Ordinance No. 1407 passed on second reading.

ORDINANCE NO. 1404 - AN ORDINANCE AMENDING SECTION 28-81.3 AND SECTION 28-81.4 OF ARTICLE 4, SPEED REGULATIONS, OF CHAPTER 28 OF THE CODE OF ORDINANCE OF THE CITY OF ASHEVILLE

3. Consideration was given to the second reading of Ordinance No. 1404, and ordinance amending Section 28.81.3 and Section 28-81.4 of Article 4, Speed Regulations, of Chapter 28 of the Code of Ordinance of the City of Asheville.

Mayor Trantham said this Ordinance was previously read on first reading and would not be reread in its entirety, unless there was a specific request to do so.

Councilman McDevitt said he had received a letter from Frank Young objecting to the lowering of the speed limits on Edwin Place, Evelyn Place, and Kimberly Avenue. He also requested time to prepare and circulate a "Anti-Speed Reduction Petition." He said he had also received telephone calls opposing the reduction of the speed limit in this area.

Councilman McDevitt moved to continue the second reading of Ordinance No. 1404 until November 29, 1983, giving the "opposition" time to express their opinions to City Council. This motion was seconded by Councilwoman Frank.

The following individuals spoke in support of the Ordinance reducing the speed limit to 25 MPH and requested that Council proceed with the second and third readings of the Ordinance at today's meeting: Jeff Rackham, 148 Edwin Place; Gene Easterling, 200 Kimberly Avenue; Royal Scoville, 201 Kimberly Avenue; Jean Russell, 120 Kimberly Avenue; and Alice Slikker, 69 Evelyn Place.

Councilman McDevitt said he appreciated the spirit and concern of the residents in the area but he felt the opposition should be given an opportunity to voice their opinion.

Councilwoman Bratton said she had not received any opposition calls to lower the speed limit and she would be in favor of passing the Ordinance on a second and third reading today.

Councilwoman Frank agreed with Councilman McDevitt stating that the opposition should be given an opportunity to be heard. She said enforcement of the speed limits is essential.

Mayor Trantham said he would be opposed to postponing the second and third readings of the Ordinance and recommended that Council proceed with the readings.

Councilman McDevitt's motion to postpone the second reading until November 29, 1983 carried on a voice vote of 3-1.

RESOLUTION NO. 83-201 - RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF ASHEVILLE TO CONVEY TO BUNCOMBE COUNTY PERSONAL PROPERTY RELATED TO THE OPERATION OF THE PACK MEMORIAL LIBRARY SYSTEM

Consideration was given to a resolution authorizing the Mayor of the City of Asheville to convey to Buncombe County personal property related to the operation of the Pack Memorial Library System.

The City Manager said members of Council were previously furnished copies of the Resolution and it would not be read in its entirety. He said this would authorize the transfer of ownership of all City-owned property which on July 1, 1980 was related to the operation of the Pack Memorial Library System to Buncombe County.

Upon motion of Councilwoman Frank, seconded by Councilman McDevitt, Resolution No. 83-201 was unanimously adopted.

Complete text of Resolution No. 83-201 will be found in Resolution Book No. 14 at page 200.

RESOLUTION NO. 83-202 - RESOLUTION AUTHORIZING CONDEMNATION OF PROPERTY IN THE TOWN BRANCH STORM DRAINAGE PROJECT

Consideration was given to a resolution authorizing condemnation of property in the Town Branch Storm Drainage Project.

The City Manager read the Resolution stating that the City of Asheville has executed a contract with the Housing Authority which requires the Housing Authority to provide acquisition and relocation services to the City. The Housing Authority has caused properties in the Town Branch Storm Drainage Project to be appraised by a competent real estate appraiser and the Housing Authority has established maximum acquisition values for these properties in accordance with the appraisals received. The Housing Authority has been unable to reach agreement to purchase at the approved values of the subject parcels. This Resolution will authorize condemnation in order that the City might carry out its approved plan of development. The following parcels are to be condemned:

Block/Parcel	Owner	Address
13/11	Clarke	Valley Street
13/21	Dailey	Valley Street
13/22	Schochet/Levy	Valley Street
13/23	Fancher Heirs	Valley Street
13/27	Sullivan	Valley Street
13/28	Schochet Heirs	Valley Street
13/29	Sullivan	Valley Street
13/30	Wilson Heirs	Valley Street
13/31	Fuller	Valley Street

Upon motion of Councilwoman Frank, seconded by Councilwoman Bratton, Resolution No. 83-202 was unanimously adopted.

Complete text of Resolution No. 83-202 will be found in Resolution Book No. 14 at page 201.

The City Manager said the Housing Authority of the City of Asheville has tentatively accepted the bid for a disposal parcel in the East Riverside Renewal Project.

Parcel	Revise	Price	Bid	Redeveloper
96-A	Institutional	36,500	40,000	Board of Education

NOTE: By July 1, 1984, the Asheville City Board of Education will have long-range plans for the property. At present they plan expanding parking for South French Broad School and a multi-purpose field for use by the Asheville City Schools. They anticipate that the field will also be used by the Buncombe County soccer teams, Asheville Parks and Recreation softball teams, and the Asheville Chiefs.

Councilman Myers moved to approve the sale of Disposal Parcel 96-A in the East Riverside Renewal Project as recommended by the Housing Authority. This motion was seconded by Councilman McDevitt and carried unanimously.

RESOLUTION NO. 83-200 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT BETWEEN THE CITY OF ASHEVILLE AND THE ENKA-CANDLER WATER AND SEWER DISTRICT

8. Consideration was given to a Resolution authorizing the Mayor to execute an agreement between the City of Asheville and the Enka-Candler Water and Sewer District.

The City Manager said members of Council were previously furnished copies of the Resolution and it would not be read in its entirety unless there was a specific request to do so.

The Enka-Candler Water and Sewer District proposes to construct certain sewer lines within their district boundaries. The City of Asheville has annexed a portion of the district where the sewer line work is to take place, said annexation is subject to a petition for discretionary review by the North Carolina Supreme Court. The City desires that the district proceed with the construction of certain sewer lines within the district boundaries and desires to reimburse the district subject to terms and conditions outlined in the agreement.

Upon motion of Councilman McDevitt, seconded by Councilwoman Frank, Resolution No. 83-200 was unanimously adopted.

Complete text of Resolution No. 83-200 will be found in Resolution Book No. 14 at page 199.

CANCELLATION OF MEETING OF CITY COUNCIL FOR NOVEMBER 22, 1983

Councilman Myers moved to cancel the Asheville City Council meeting scheduled for November 22, 1983 for lack of business. This motion was seconded by Councilman McDevitt and carried unanimously.

RESCHEDULING OF PUBLIC HEARING - HOUSING AUTHORITY AS REDEVELOPMENT COMMISSION

Councilwoman Frank moved to reschedule a public hearing relative to designating the Housing Authority as a redevelopment commission for November 29, 1983. This motion was seconded by Councilman Myers and carried unanimously.

Tuesday, November 29, 1983 - 4:00 p.m.

Regular Meeting

Present: Mayor Roy M. Trantham, Presiding; Vice-Mayor Norma T. Price; Councilwomen Mary Lloyd Frank and Wilhelmina Bratton; Councilmen Larry McDevitt, Gordon Myers, and Joe Pless; Corporation Counsel William F. Slawter; City Manager K. M. Michalove; Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: None

INVOCATION

The invocation was given by Councilman Gordon Myers.

APPROVAL OF THE MINUTES

1. Approval of the minutes of November 15, 1983 meeting.

Upon motion of Councilwoman Frank, seconded by Councilman Myers, the minutes of the November 15, 1983 meeting were unanimously approved as submitted.

PROCLAMATION - "NATIONAL HOME HEALTH WEEK" - November 27-December 3, 1983

Mayor Trantham proclaimed the week of November 27-December 3, 1983 as "National Home Health Week".

Mayor Trantham presented the proclamation to Joanie Ingle.

PROCLAMATION - "ADOPTION WEEK" - NOVEMBER 20 - 23, 1983

Mayor Trantham proclaimed the week of November 20-26, 1983 as "Adoption Week."

Mayor Trantham presented the proclamation to Janet Monrow.

COMMENTS BY FORMER MAYOR EUGENE OCHSENREITER - REGARDING MAYOR TRANTHAM

Eugene Ochsenreiter, former Mayor of the City of Asheville, along with former Mayors Richard Wood and Wayne Montgomery, expressed their appreciation to Mayor Trantham for a "job well done." Mr. Ochsenreiter said as former Mayors, they just wanted to say "thanks" for doing the job of Mayor of the City of Asheville better than any other Mayor of the city.

Mayor Trantham thanked Mr. Ochsenreiter, Mr. Wood, and Dr. Montgomery for their expressions of appreciation.

ORDINANCE NO. 1404 - AN ORDINANCE AMENDING SECTION 28-81.3 AND SECTION 28-81.4 OF ARTICLE 4, SPEED REGULATIONS, OF CHAPTER 28 OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE

2. Consideration was given to the second reading of Ordinance No. 1404, an ordinance amending Section 28-81.3 and Section 28-81.4 of Article 4, Speed Regulations, Chapter 28 of the Code of Ordinances of the City of Asheville.

PRESENTATION OF PLAQUE TO COUNCILMAN JOE PLESS

Mr. Johnny Hayes of the Hillcrest Enrichment Program appeared before Council to present Councilman Joe Pless a plaque in recognition and appreciation for his commitment and service to the people of the City of Asheville while serving as a councilman. In the absence of Councilman Pless, Mr. Hayes requested that the plaque be given to Council Pless and to tell him that the Hillcrest Enrichment Program came out in numbers to tell him of their appreciation.

RALPH BISHOP - COMMENTS RELATIVE TO THE MAYOR

Ralph Bishop again made comments relative to the Mayor.

ADJOURNMENT

Upon motion of Councilwoman Frank, seconded by Councilman Myers, the meeting adjourned at 5:00 p.m.

Ray M. Lapsley
Mayor

William F. Marcett
City Clerk

My friends and I -- and we also have petitioned both the Kimberly Avenue neighborhood as well as North Asheville -- strongly oppose the reduction in speed for these four reasons:

1) In our opinion, the reduction in speed is not justified. These streets are relatively straight and wide compared to other streets in the area. Kimberly Avenue is 33 feet wide, Edwin Place is 40 feet wide at the most narrow portion, and Evelyn is about 31 feet wide. On the other hand, Murdock, Chestnut and Hillside are only 24 feet wide. Has the Council comtemplated the dichotomy of having a 25 MPH speed along a 40 foot street while at the same time having a 30 MPH speed along the more narrow 24 foot streets. To overcome this inconsistency, will the Council subsequently lower the speed limit on these side streets a proportionate amount? Which means, of course, that these few owners in the Kimberly group are setting the speed on streets all over North Asheville.

Also, some of Kimberly has houses only on one side while the 24 foot streets mentioned of course have houses on both sides, Further, the houses on the 24 foot streets are more closely spaced than those on Kimberly -- I.E., more per city block.

The speed of 25 MPH is the posted speed at neighboring St. Eugene and Claxton schools when school is in session. And even then, the reduced speed applies only for one or two blocks --not two miles.

2) The reduced speed, in our opinion, is not necessary. If the 35 MPH posted limit were honored -- or controlled -- we believe there would be no problem. According to comments and letters of the Kimberly Avenue group, traffic is not abiding by the posted limit and in the words of the Asheville Times editorial of October 18, flies past at 50 MPH. If the City cannot enforce the 35 MPH limit, then what good is there in reducing it to 25? That will just make law breakers of more drivers. On the other hand, if the City can enforce 25, then it can also enforce 35 and an enforced 35 MPH traffic flow should cause no problem in this area.

3) Our group thinks that a speed limit of 25 MPH in this area under discussion is unreasonable and unfair. Some of the ladies of the Kimberly Avenue group have telephoned me and have written backtalk complaining that they bought their homes on Kimberly because they want to live in a quiet residential area. They also boast of paying the highest taxes in the City. My response to these remarks is that most people investigate such problems as city noises and city traffic flow when they purchase their house. They don't normally move in and three years later expect to revamp a whole section of town.

The traffic light at the intersection of Kimberly, Edwin and Evelyn is only 1-1/2 miles from Vance Monument by City street. It is only 6,000 feet measured as the crow flies on a city map. In this jet age, can we expect to have suburban living only one mile from the heart of the City?

As for taxes, I believe mine in Ward 9 will rank up there with the rest -- certainly the rates are no higher on Kimberly. And the City also benefits from taxes originating outside the Kimberly Avenue group.

To further support the point of unreasonableness -- I again mention the Asheville Times editorial of October 18, 1983, in supporting the Kimberly Avenue group, the editorial in one column states that "several thousand" cars a day use Kimberly Avenue. (As a matter of fact, the editoral calls this thoroughfare exactly what it is -- a thoroughfare.) Yet in suggesting rerouting of this thoroughfare traffic onto over-crowded Merrimon -- which might be logical to a newspaperman, but

Mayor Trantham said this ordinance was previously read on first reading and would not be re-read in its entirety unless there was a specific request to do so. He said the second reading of the ordinance was continued from the November 15, 1983 meeting.

Mr. Frank Young representing a group in opposition to reducing the speed limit on Kimberly, Edwin, and Evelyn Place to 25 mph, read the following statement and presented a petition in opposition to the reduction of the speed limit.

November 29, 1983

" STATEMENT AGAINST SPEED REDUCTION

---Mr. Mayor, Madam Vice Mayor, Council, Friends---

My name is Frank Young. I'm the person who wrote the letter of November 11, 1983, requesting that the speed limit on Kimberly Avenue, Edwin Place and Evelyn Place not be lowered to 25 MPH.

Contrary to what some of my neighbors in the Kimberly Avenue group might think, I do live within the city limits of Asheville and have done so for the past 27 years. I also have paid City taxes and have voted in each of the City elections held during those 27 years. I feel I have as much right to speak on the subject of City streets as any of my friends on the other side of the proposal under consideration.

I apologize to the Council and to the Kimberly Avenue group for my belated appearance. I really knew nothing of this proposal to reduce speed until after the Council met on November 10 and approved the first reading, and I appreciate this opportunity to speak at such an apparent late date.

I should mention early on that our group seems to be confronted with at least two physiological disadvantages. First, we are accused or representing the speeding element in the City and therefore are the bad guys. That simply is not the case here. The speed limit has been 35 MPH on these streets since 1956 when I first moved to Asheville. We don't want the speed increased -- we merely want it left as it has been all these years. We don't want it to reduced to a crawl.

Secondly, I've been told by a number of those in the Kimberly Avenue group that we are wasting our time because the Council has already promised to reduce the speed limit to 25. I hope that isn't the case. If it is, then why are we here today and what is the need for the procedure of three readings? I ask only that you have an open mind as we present our position.

I have studied the overall plan of the Kimberly Avenue group as presented in a November 3 letter to Mayor Trantham, while I admire the broad based ambitions for Kimberly Avenue set forth in that letter, I can't tell you how pleased I am that today we aren't addressing such things as new exits off Interstate Connector 240, deletion of streets from official City maps, authentic and historically accurate lamps, lamp posts, and street signs, or the closing off and planting of flowers in Kimberly Avenue. The only issue that I am aware of at this time is whether or not to reduce the speed on these streets to 25 MPH.

PETITION

I, the undersigned resident of Metropolitan Asheville, am aware of a proposal presently pending before the Asheville City Council to reduce the speed limit on Kimberly Avenue, Edwin Place and Evelyn Place from 35 mph to 25 mph, and I am signing this petition to indicate my opposition to such proposal. I feel the reduction in speed limit is not justified in these circumstances and that the desired effect can be obtained by stricter enforcement of the now existing 35 mph limit.

Mr. Young said the petition contains 735 signatures in opposition to reducing the speed limit to 25 mph.

Mr. James Gilmartin also spoke in opposition to reducing the speed limit to 25 mph. He presented traffic and accident counts on various streets within the City of Asheville, stating that the reduction of a speed limit will not solve any of the problems addressed by the petitioners. He requested that Council leave the speed limit at 35 mph and that strict enforcement be instituted.

Mr. Easterling of 200 Kimberly Avenue spoke in favor of reducing the speed limit to 25 mph. He took exceptions to several comments made by Mr. Young.

Jean Russell of 120 Kimberly Avenue also spoke in favor of reducing the speed limit to 25 mph.

Mr. Roy Scoville of 201 Kimberly Avenue also spoke in favor of reducing the speed limit to 25 mph. He presented figures showing the time and distance it takes to travel Kimberly Avenue vs. Merrimon Avenue. He said it would take approximately one minute longer to drive Kimberly at 25 mph than 35 mph.

Mrs. Frances Scoville of 201 Kimberly Avenue also spoke in favor of reducing the speed limit to 25 mph.

Barbara Malloy of 107 Evelyn Place presented additional petitions requesting that the speed limit be reduced to 25 mph.

Mr. Dick Davis of Edwin Place said he appeared before Council three or four years ago requesting that the height of the curb and gutter at Edwin, Evelyn and Kimberly Avenue be increased. He said this request was made after two youngsters had been killed on Kimberly Avenue due to speed and drunk driving.

Councilman McDevitt advised Mr. Davis that the City Manager and the Traffic Engineer would look into his request.

Mr. John Orr of 925 Country Club Road spoke in opposition to reducing the speed limit stating that the reduced speed would cause more accidents on Kimberly Avenue.

Councilman Pless said that Council had made a commitment at the beginning of November to the residents on Kimberly Avenue that the speed limit would be reduced to 25 mph. He said he felt Council should keep that commitment.

Councilwoman Bratton said she would be in favor of lowering the speed limit to 25 mph and would like everyone to maintain the neighborhood concept.

Vice-Mayor Price said she intended to support the reduction of the speed limit and requested that all residents in the area support the 25 mph speed limit.

not to me -- the editorial mentioned that only some people will be inconvenienced. If the traffic flow on Kimberly now is several thousand cars a day (and our opposition says it's 9,000), then I can assure you that more than "some" people will be inconvenienced. Why should these poeple change to Merrimon when they have been driving the more direct route along Kimberly all these years?

4) Our group also is of the opinion that the change in speed limit will not produce the desired result unless a patrolman is posted around the clock. And, of course, if a patrolman were there around the clock, this would not be the "50 MPH thoroughfare" described in the Asheville Times editorial I just mentioned. The 35 limit could be enforced.

Our position that the proposal won't work is based on a discussion with two experienced traffic engineers working here in Asheville for the State of North Carolina, and one working in another state. They unamiously support a traffic survey conducted a few years ago by the University of Michigan. According to that survey, motorists determine their own speed regardless of posted speed limits, and a change in the posted speed limit -- alone, -- has not effect whatsoever on the speed or traffic or the traffic flow. The survey recommends a procedure called the "85 percentile radar system" for determining the proper speed of a traffic artery, and the State of North Carolina uses that procedure on State highways. They do not rely on neighborhood petitions.

As I stated in my letter to the Council, Kimberly Avenue for some time has been and actually now is being used as a direct route to town -- like it or not -- and is one of only two routes from northeast Asheville. Despite the November 15 Asheville Citizen article explaining a reduction in traffic flow on Merrimon Avenue between 1981 and 1982, this other artery is already over-crowded and in our opinion cannot be expected to accept the additional "several thousand" cars a day from Kimberly. There simply is no other alternative to Kimberly at the present time and we cannot afford the luxury of treating it as a cul-de-sac for the benefit of a few hundred taxpayers -- whether or not they pay more taxes than anybody else, as they claim.

Since the proposed reduction, at least in our opinion, is unjustified, unnecessary, unreasonable, unfair and inoperative without further traffic control, our group believes it is without merit. We therefore recommend that it be tabled until such time as a suitable alternate traffic route is provided for northeast Asheville, and we further recommend that every effort be made to patrol these streets to insure enforcement of the existing 35 MPH limit.

In my letter to you, I promised that I could obtain support from more North Asheville residents than there are homes on Kimberly, Edwin Place and Evelyn Place combined. I counted 141 homes, 7 apartments, and 2 churches. Just to show the Council the interest of North Asheville residents in not lowering the speed limit on these streets -- my friends and I have gathered a total of 735 signatures of those who are opposed to this reduction in speed limit. We are confident that you will take into account the rights and interests of these citizens -- as well as the rights and interests of the Kimberly Avenue group -- in making your decision.

These streets are not their streets, they are our streets.

Thank you. "

Verl Emrick, Director of Planning, said this Resolution will authorize the City to contract with the Housing Authority for certain professional services pursuant to the designation of the Housing Authority as a redevelopment commission.

Mayor Trantham closed the public hearing at 5:18 p.m.

The City Manager said members of Council were furnished copies of the Resolution and it would not be read in its entirety unless there was a specific request to do so.

Upon motion of Councilwoman Frank, seconded by Vice-Mayor Price, Resolution No. 83-203 was unanimously adopted.

Complete text of Resolution No. 83-203 will be found in Resolution Book No. 14 at page 202-203.

Councilman McDevitt noted that the Resolution and contract should include all changes discussed by members of Council in the pre-Council meeting.

PUBLIC HEARING - ANNEXATION OF RAMADA INN ON US 19-23 WEST

ORDINANCE NO. 1409 - AN ORDINANCE ANNEXING A NON-CONTIGUOUS AREA ON US 19-23 WEST

4. A public hearing was held relative to annexing a non-contiguous area on US 19-23 West known as the Ramada Inn.

Mayor Trantham opened the public hearing at 5:20 p.m.

The City Manager presented the notice to the public, setting the time and date for the public hearing and the Affidavit of Publication.

Verl Emrick, Director of Planning, said the owners of the property where the new Ramada Inn, on US 19-23 West, will be located have petitioned the City of Asheville for satellite annexation. He said all City services would be available and the estimated ad valorem tax generated is expected at $24,667.00. He said the estimated annual cost would be approximately $180. He said all costs could be absorbed into the existing budget. He said the petition and area meets all the criteria as specified in GS 160A-58.1 for annexing non-contiguous areas.

Mayor Trantham closed the public hearing at 5:21 p.m.

The City Manager said members of Council were furnished copies of the Ordinance and it would not be read in its entirety unless there was a specific request to do so.

Councilwoman Frank moved for the adoption of Ordiance No. 1409. This motion was seconded by Councilman Myers.

On a roll call vote of 6-1, Ordinance No. 1409 passed on first reading with Councilman Pless voting "no."

PUBLIC HEARING - ANNEXING PROPERTY ON US 25 KNOWN AS BLACK FOREST RESTAURANT

Councilman McDevitt thanked both sides for expressing their point of view on the speed limit. He said he had doubts that the 25 mph speed limit would be a desired effect. He said he would support the reduction, but he did not think it would work. He requested that the City staff and the residents of Kimberly Avenue monitor the 25 mph speed limit for six months. He requested that the City staff and the residents report back to Council the effect of the reduction of the speed limit. He said this would give Council guidance for other areas of the City in the same situation.

Councilwoman Frank said she intended to support the 25 mph speed limit zone and she would also be in favor of evaluating the reduction and the enforcement of the 25 mph zone.

On a roll call vote of 7-0, Ordinance No. 1404 passed on second reading.

Councilman McDevitt moved to suspend the rules and proceed to the third reading of Ordinance 1404. This motion was seconded by Councilwoman Bratton and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1404 passed on third and final reading.

Complete text of Ordinance No. 1404 will be found in Ordinance Book No. 10 at page 79.

PRESENTATION OF RESOLUTIONS ADOPTED BY THE PLANNING AND ZONING COMMISSION CERTIFYING THREE (3) ZONES AS "NON-RESIDENTIAL REDEVELOPMENT AREAS"

3. Mr. Verl Emrick, Planning Director, presented resolutions adopted by the Planning and Zoning Commission certifying that the areas known as Walnut Street/ Haywood Street, Zone 3; Wall Street/Otis Street, Zone 1 and 2, are "non-residential redevelopment areas." He said members of Council were furnished copies of the Resolution and the Butler-McGill reports. He said these areas meet all the criteria as non-residential redevelopment areas. He said no action was required by Council and the City could proceed with the downtown projects.

PUBLIC HEARING - DESIGNATING HOUSING AUTHORITY AS A REDEVELOPMENT COMMISSION

RESOLUTION NO. 83-203 - RESOLUTION DESIGNATING THE HOUSING AUTHORITY OF THE CITY OF ASHEVILLE TO CONTINUE ITS ROLE AS A REDEVELOPMENT COMMISSION, DIRECTING THE HOUSING AUTHORITY TO PREPARE AND IMPLEMENT A REDEVELOPMENT PLAN AND AUTHORIZING THE MAYOR ON BEHALF OF THE CITY OF ASHEVILLE TO EXECUTE A CONTRACT WITH THE HOUSING AUTHORITY TO PREPARE AND IMPLEMENT SAID PLAN

4. A public hearing was held relative to designating the Housing Authority of the City of Asheville as a redevelopment commission for certain projects of the development in the downtown area.

Mayor Trantham opened the public hearing at 5:17 p.m.

The City Manager presented the notice to the public setting the time and date for the public hearing and the Affidavit of Publication.

PUBLIC HEARING - REZONING PROPERTY LOCATED AT FAIRVIEW ROAD AND RIDGECREST ROAD

ORDINANCE NO. 1411 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED

5. A public hearing was held relative to rezoning property located at Fairview Road and Ridgecrest Roads.

Mayor Trantham opened the public hearing at 5:30 p.m.

The City Manager presented the notice to the public setting the time and date for the public hearing and the Affidavit of Publication.

Verl Emrick, Director of Planning, said the Asheville Planning and Zoning Commission, at a meeting held November 2, 1983, considered the request of Mrs. Louise R. Morgan, et al, that lots 415 and 416, Sheet 26, Ward 7, be rezoned from R-3, Residential District to CG-Commercial General District. After discussing the issues of this request, the Commission voted to recommend approval of this petition to City Council. He said the intended use of the property is a small retail service-type business. He said no opposition to the rezoning was received.

Mrs. Morgan, petitioner for the rezoning, spoke in support of the rezoning.

Mayor Trantham closed the public hearing at 5:35 p.m.

The City Manager said members of Council were furnished copies of the Ordinance and it would not be read in its entirety unless there was a specific request to do so.

Vice-Mayor Price moved for the adoption of Ordinance No. 1411. This motion was seconded by Councilman Frank.

On a roll call vote of 7-0, Ordinance No. 1411 passed on first reading.

Vice-Mayor Price moved to suspend the rules and proceed to the second reading of Ordinance No. 1411. This motion was seconed by Councilwoman Frank and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1411 passed on second reading.

PUBLIC HEARING - REZONING PROPERTY LOCATED AT HENDERSONVILLE ROAD AND SEMINOLE STREET

ORDINANCE NO. 1412 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED

7. A public hearing was held relative to rezoning property located at Hendersonville Road and Seminole Street.

Mayor Trantham opened the public hearing at 5:37 p.m.

The City Manager presented the notice to the public setting the time and date for the public hearing and the Affidavit of Publication.

Verl Emrick, Director of Planning, said the Asheville Planning and Zoning Commission, at a meeting held November 2, 1983, considered the request of Mr. Ned

ORDINANCE NO. 1410 - AN ORDINANCE ANNEXING A NON-CONTIGUOUS AREA ON US 25

5. A public hearing was held relative to annexing a non-contiguous area on US 25 (Black Forest Restaurant).

Mayor Trantham opened the public hearing at 5:23 p.m.

The City Manager presented the notice to the public setting the time and date of the public hearing and the Affidavit of Publication.

Verl Emrick, Director of Planning, said the owners of the Black Forest Restaurant on US 25 have petitioned the City of Asheville for satellite annexation. He said the area lies approximately one and one-half miles from the newly annexed area in to the City of Asheville. He said all City services are in place. He said the estimated annual ad valorem tax generated is expected at $1,680.00. He said the extimated annual cost is approximately $120.00 which could be absorbed into the existing budget. He said this area meets all requirements for annexation under GS-160A-58.1.

Mayor Trantham closed the public hearing at 5:28 p.m.

The City Manager said members of Council were furnished copies of the Ordinance and it would not be read in its entirety unless there was a specific request to do so.

Councilman Myers moved for the adoption of Ordinance No. 1410. This motion was seconded by Vice-Mayor Price.

On a roll call vote of 6-1, Ordinance No. 1410 passed on first reading. With Councilman Pless voting "no."

Councilman Pless said in his opinion, Council should not continue to annex satelite areas. He said it would end up costing the City more to annex these areas.

Larry Kimbel, Attorney for the petitioners, requested that Council pass the second and third reading of the annexation ordinance at today's meeting.

Councilmen Pless moved to suspend the rules and proceed to the second reading of Ordinance No. 1410. This motion was seconded by Council Myers and carried on a voice vote of 6-1, with Councilman McDevitt voting "no."

On a roll call vote of 6-1, Ordinance No. 1410 passed on second reading with Councilman Pless voting "no."

Councilman Pless moved to suspend the rules and proceed to the third reading of Ordinance No. 1410. This motion was seconded by Councilman Myers and carried on a voice vote of 6-1 with Councilman McDevitt voting "no."

On a roll call vote of 6-1, Ordinance No. 1410 passed on third and final reading with Councilman Pless voting "no."

Complete text of Ordinance No. 1410 will be found in Ordinance Book No. 10 at page 86-87.

ORDINANCE NO. 1407 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED (PROPERTY LOCATED AT 341 EMMA ROAD)

10. Consideration was given to the third reading of Ordinance No. 1407, an ordinance amending Ordinance No. 322, known as "an ordinance providing for the zoning of the City of Asheville," as amended.

Mayor Trantham said the ordinance was previously read on first reading and would not be reread in its entirety unless there was a specific request to do so.

On a roll call vote of 7-0, Ordinance No. 1407 passed on third and final reading.

Complete text of Ordinance No. 1407 will be found in Ordinance Book No. 10 at page 82.

Mayor Trantham was excused from the meeting at 5:50 p.m., turning the chair over to Vice-Mayor Price.

APPROVAL OF SALE OF DISPOSAL PARCELS - EAST RIVERSIDE RENEWAL PROJECT AND EAST END VALLEY STREET PROJECT

11. Consideration was given to a motion approving the sale of disposal parcels in the East Riverside Renewal Project and East End/Valley Street Project.

The City Manager said the Housing Authority has tentatively accepted the following bids for disposal parcels in the East Riverside Renewal Project and East End/Valley Street Project.

Parcel	Reuse	Price	Bid	Redevloper
66	Residential	2,800	2,800	Herman Crawley
9	Residential	2,800	3,026	LS & M Building Co., Inc.
166	Residential	2,000	2,176	LS & M Building Co., Inc.
178A	Residential	1,500	1,500	Wilbert Morrison & Wife

All of the above sales are single-family residences. 66 and 178-A are dollar lot sales. The subsidy will be available on 9 and 166 at the time the completed home is sold to an owner occupant.

Upon inquiry of Councilman Myers, Vice-Mayor Price explained the process developers must go through in order to purchase one of the dollar-lot parcels. She said the developer does not get the advantage of the dollar lot, however, it is passed on to the buyer.

Councilwoman Frank moved to approve the sale of the disposal parcels as tentatively accepted by the Housing Authority. This motion was seconded by Councilwoman Bratton and carried unanimously.

RESOLUTION NO. 83-204 - RESOLUTION AUTHORIZING THE DIRECTOR OF PUBLIC WORKS TO EXECUTE A RIGHT-OF-WAY ENCROACHMENT AGREEMENT WITH OWNER AND LESSEE OF PROPERTY LOCATED AT THE INTERSECTION OF MERRIMON AVENUE AND FENDER AVENUE

Gibson, Agent for Mr. Willard Lindberg, that Ward 7, Sheet 52, Lot 135, be rezoned from R-2, Residential District to CH, Commercial Highway District. After discussing the issues of this request, the Commission voted to recommend approval to City Council.

He said the reason for the requested rezoning is that the front portion of the lot is zoned commercial and the rear portion residential. He said with the proposed widing of Hendersonville Road, the commercial area would be taken up. He said a petition was presented by the surounding property owners showning no opposition to the requested rezoning.

Mayor Trantham closed the public hearing at 5:39 p.m.

The City Manager said members of Council were furnished copies of the Ordinance and it would not be read in its entirety unless there was a specific request to do so.

On a roll call vote of 7-0, Ordinance No. 1412 passed on first reading.

CONTINUATION OF PUBLIC HEARING - REZONING PROPERTY AT 18 JOHNSTON BLVD.

ORDINANCE NO. 1413 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED

8. A public hearing was continued relative to rezoning property located at 18 Johnston Blvd. from R-3, Residential District to CH, Commercial Highway District.

Mayor Trantham said this public hearing was continued from the November 10, 1983 meeting.

Verl Emrick, Director of Planning, said he had received correspondence from Attorney Marvin Pope stating the intent of the property owner to restrict the use of the property for professional offices only. He said properly executed and recorded retrictive covenants would be sufficient to restrict the property.

Attorney Marvin Pope said he had talked with the City Attorney relative to the restrictive covenants concerning the use of the property. He said the restrictive covenants had been recorded with the Register of Deeds Office in Deed Book 1338 at page 709.

Corporation Counsel Slawter said he did not request that Mr. Pope record the restrictive covenants; however, he told him that Council would probably consider the covenants during the rezoning of the property.

Councilman McDevitt assured that no deal, agreement, of contract was made with the owner or attorneys relative to the rezoning as to what Council might do if the restrictive covenants were recorded and noted that the covenants were placed by the attorney on his own accord.

Mayor Trantham closed the public hearing at 5:46 p.m.

Vice-Mayor Price moved for the adoption of Ordinance No. 1413. This motion was seconded by Concilwoman Frank.

On a roll call vote of 7-0, Ordinance No. 1413 was passed on first reading.

The City Manager said members of Council were furnished copies of the resolution and it would not be read in its entirety unless there was a specific request to do so.

Upon motion of Councilwoman Frank, seconded by Councilman Myers, Resolution No. 83-206 was unanimously.

Complete text of Resolution No. 83-206 will be found in Resolution Book No. 14 at page 206.

ORDINANCE NO. 1415 - BUDGET ORDINANCE AMENDMENT TO SET UP A PROJECT BUDGET TO ACCOUNT FOR HISTORIC RESOURCES COMMISSION OPERATIONS FOR THE COST AND PROCEEDS FOR PUBLISHING A BOOK

16. Consideration was given to a budget ordinance amendment to set up project budget to account for Historic Resources Commission operations for the costs and proceeds for publishing a book.

The City Manager said members of Council were furnished copies of the ordinance and it would not be read in its entirety unless there was a specific request to do so.

NOTE: The Historic Resources Commission's operating budget is $13,260.00, which is funded by a contribution from the County and from the Community Development fund. The appropriation for the book anticipates publishing costs of $12,000 and total sales proceeds of $18,000.

Councilwoman Frank moved for the adoption of Ordinance 1415. This motion was seconded by Councilman McDevitt.

On a roll call vote of 6-0, Ordinance No. 1415 passed on first and final reading.

Complete text of Ordinance No. 1415 will be found in Ordinance Book No. 10 at page 92.

ORDINANCE NO. 1416 - BUDGET ORDINANCE AMENDMENT TO APPROPRIATE FUNDS FOR THE ACQUISITION OF FIRE EQUIPMENT FOR THE SOUTH BUNCOMBE AREA

Consideration was given to a budget ordinance amendment to appropriate funds for the acquisition of fire equipment for the South Buncombe area in the amount of $74,988.

Councilman McDevitt moved for the adoption of Ordinance No. 1416. This motion was seconded by Councilman Myers.

On a roll call vote of 6-0, Ordinance No. 1416 passed on first and final reading.

Complete text of Ordinance No. 1416 will be found in Ordinance Book No. 10 at page 93.

BIDS - FIRE TRUCK - 1000 GPM PUMPER

Consideration was given to bids received on November 1, 1983 for a 1000 GPM Pumper for the Fire Department.

12. Consideration was given to a resolution authorizing the Director of Public Works to execute a right-of-way encroachment agreement with owner and leasee of property located at the intersection of Merrimon Avenue and Fenner Avenue.

The City Manager said memebers of Council were furnished copies of the resolution and it would not be read unless there was a specific request to do so.

Upon motion of Councilman Myers, seconded by Councilwoman Frank, Resolution No. 83-204 was unanimously adopted.

Complete text of Resolution No. 83-204 will be found in Resolution Book No. 14 at page 204.

ORDINANCE NO. 1414 - BUDGET ORDINANCE AMENDMENT TO REBUDGET OUTSTANDING ENCUMBERANCES

13. Consideration was given to a budget ordinance amendment to rebudget outstanding encumberances.

The City Manager said members of Council were furnished copies of the ordinance and it would not be read in its entirety unless there was a specific request to so.

Councilman McDevitt moved for the adoption of Ordinance No. 1414. This motion was seconded by Councilwoman Frank.

On a roll call vote of 6-0, Ordinance No. 1414 passed on first and final reading.

Complete text of Ordinance No. 1414 will be found in Ordinance Book No. 10 at page 91.

RESOLUTION NO. 83-205 - RESOLUTION OF INTENT TO CLOSE AN ALLEYWAY THAT IS THE WESTERN MOST EXTENSION OF FIRST STREET IN BILTMORE AND CALLING A PUBLIC HEARING ON THE QUESTION

14. Consideration was given to a resolution of intent to close an alleyway that is the western most extension of First Street in Biltmore and calling a public hearing on the question for January 10, 1984.

The City Manager said members of Council were furnished copies of the resolution and it would not be read in its entirety unless there was a specific request to do so.

Upon motion of Councilwoman Bratton, seconded by Councilman Myers, Resolution No. 83-205 was unanimously adopted.

Complete text of Resolution No. 83-205 will be found in Resolution Book No. 14 at page 205.

RESOLUTION NO. 83-206 - RESOLUTION CONSIDERING THE PLAN BY THE HISTORIC RESOURCES COMMISSION TO RAISE FUNDS BY UNDERWRITING ONE-HALF OF THE COST OF PUBLISHING A BOOK ENTITLED "ASHEVILLE; A PICTORIAL HISTORY"

15. Consideration was given to a resolution considering the plan by the Historic Resources Commission to raise funds for underwriting one-half of the cost of publishing a book entitled "Asheville; A Pictorial History."

The City Manager presented claims received from William Morgan, George Grigg, Wade Howell, and Steve Rice.

Mayor Trantham presented the claims to the Corporation Counsel for investigation and recommendation.

LAWSUITS - THOMAS R. WOODBURY - APPEAL FROM CIVIL SERVICE BOARD DECISION

The City Manager also presented a summons received in connection with the lawsuit involving Thomas R. Woodbury relative to an appeal from the Civil Service Board decision.

Mayor Trantham referred the lawsuit to the Corporation Counsel for action.

RESOLUTION NO. 83-208 - RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACTUAL AGREEMENT WITH THE ASHEVILLE-BUNCOMBE COMMUNITY RELATIONS COUNCIL

Consideration was given to a resolution authorizing the Mayor to enter into a contractual agreement with the Asheville-Buncombe Community Relations Council.

The City Manager read the resolution.

Upon motion of Councilwoman Bratton, seconded by Councilwoman Frank, Resolution No. 83-208 was unanimously adopted.

Complete text of Resolution No. 83-208 will be found in Resolution Book No. 14 at page 208.

ORDINANCE NO. 1417 - BUDGET ORDINANCE AMENDMENT - REFLECTING ORGANIZATIONAL CHANGES

Consideration was given to a budget ordinance amendment reflecting several organizational changes.

The City Manager read the budget ordinance stating that several organizational changes have occurred since July 1, 1983 and this Ordinance would increase the total City appropriations for legal services. He said the changes are; (1) transfer of Erosion Control from Inspections to City Engineering; (2) transfer of Zoning Enforcement from Inspections to Planning; (3) staffing changes in Planning Department; (4) a change in the method of accounting for legal services, and an increase in appropriation for legal services. The total General Fund affect of this amendment is an increase in appropriations of $24,650 to be funded from General Fund contingency.

A discussion was held, initated by Councilman McDevitt, relative to secretarial positions being handled through the secretarial pool.

After a brief discussion Councilman McDevitt said he would go along with the budget amendment at this time but would take another look at the time a new budget is adopted.

Councilwoman Bratton moved for the adoption of Ordinance No. 1417. This motion was seconded by Councilwoman Frank.

The City Manager read the following memorandum from the Purchasing Director relative to the bids.

MEMO TO: Ken Michalove, City Manager

FROM: Ted Grable, Purchasing Director

DATE: November 23, 1983

SUBJECT: Recommendation for Award of Bid Request No. 197-84, Fire Truck - 1000 GPM Pumper

Pursuant to N.C. General Statute 143-129, sealed bids were received on Tuesday, November 1, 1983 for a 1000 GMP Pumper for the Fire Department. Nine (9) bids were received as are shown on the attached bid tabulations.

Please submit these bids to the City Council with the recommendaton to award to the lowest bid meeting specifications, American LaFrance, in the amount of $74,988.00. American LaFrance also submitted the lowest bid, however, this unity was lime-green instead of the City's standard red color.

The Fire Chief and Motor Transport Superintendent have reviewed these bids and concur with this recommendation. In addition, because this equipment is needed as soon as possible, the bidder is offering to provide a loaner fire truck 10 days after award until delivery of the new unit in 45 to 90 days.

Funding of this purchase will be made in the general fund, Fire Department appropriation, account 10-470-0740 - Annexation Project.

Councilman Myers moved to approve the bid of American LaFrance in the amount of $74,988. This motion was seconded by Councilman McDevitt and carried unanimously.

RESOLUTION NO. 83-207 - RESOLUTION AUTHORIZING THE MAYOR TO SIGN A CONTRACT FOR FIRE PROTECTION SERVICES WITH THE VETERANS ADMINISTRATION HOSPITAL AT OTEEN

Consideration was given to a resolution authorizing the Mayor to sign a contract for fire protection services with the Veterans Administration Hospital at Oteen.

The City Manager said this resolution will authorize a new agreement for the period of January 1, 1984 through March 4, 1984.

Upon motion of Councilwoman Frank, seconded by Councilman McDevitt, Resolution No. 83-207 was unanimously adopted.

Complete text of Resolution No. 83-207 will be found in Resolution Book No. 14 at page 207.

CLAIMS - WILLIAM MORGAN (WATER AND SEWER) - GEORGE GRIGG (PARKS AND REC.) - WADE HOWELL (WATER AND SEWER) - STEVE RICE (WATER AND SEWER)

Tuesday - December 6, 1983 - 4:00 p.m.

Organizational Meeting

INVOCATION

The invocation was given by Rev. Howard Shockley, Pastor of the Asheville Evangelical Presbyterian Church and Coordinator of the Police Chaplain Corps.

OATHS OF OFFICE

The members of Council took the Oaths of Office, individually, which was administered by Judge Robert D. Lewis. The oaths were administered as follows:

Norma T. Price
Gordon S. Myers
Larry S. McDevitt
Mary Lloyd Frank
Wilhelmina Bratton
Walter Boland
W. Louis Bissette, Jr.

The members of Council introduced relatives in attendance.

ELECTION OF THE MAYOR

I. Mayor Trantham, acting as chairman of the Organizational Meeting, opened the floor for nominations for Mayor of the City of Asheville.

Councilman McDevitt moved, as a matter of procedure, that the election of the Mayor be as follows: 1) that the vote be taken in alphabetical order by voice vote; 2) that members of Council vote by name only for one candidate; 3) that in the event that three nominations are made that after the first vote the nominee with the least number of votes be eliminated if a nominee did not receive a majority vote. This motion was seconded by Councilwoman Bratton and carried unanimously.

Councilwoman Frank nominated Norma T. Price as Mayor of the City of Asheville.

Councilman Bissette nominated Larry McDevitt as Mayor of the City of Asheville.

Councilman Myers nominated Walter Boland as Mayor of the City of Asheville.

Councilman McDevitt moved that the nominations be closed. This motion was seconded by Councilwoman Frank and carried unanimously.

On a roll call vote:

Councilman Bissette voted for Councilman McDevitt;
Councilman Boland voted for Councilwoman Price;
Councilwoman Bratton voted for Councilman McDevitt;
Councilwoman Frank voted for Councilwoman Price;
Councilman McDevitt voted for Councilman McDevitt;
Councilman Myers voted for Councilman Boland;
Councilwoman Price voted for Councilwoman Price.

On a roll call vote of 6-0, Ordinance No. 1417 passed on first and final reading.

Complete text of Ordinance No. 1417 will be found in Ordinance Book No. 10 at page 94.

PROCLAMATION - "NATIONAL DRUNK AND DRUGGED DRIVING AWARENESS WEEK" - DECEMBER 11-17, 1983

Vice-Mayor Price proclaimed the week of December 11-17, 1983 as "National Drunk and Drugged Driving Awarness Week."

RALPH BISHOP - COMMENTS RELATIVE TO DOWNTOWN DEVELOPMENT

Ralph Bishop appeared before Council commenting relative to new developments in downtown.

ADJOURNMENT

Upon motion, the meeting adjourned at 6:30 p.m.

Ralph Thompson
MAYOR

William F. Holcomb
CITY CLERK

Tuesday - December 6, 1983 - 4:00 p.m.

Organizational Meeting

INVOCATION

The invocation was given by Rev. Howard Shockley, Pastor of the Asheville Evangelical Presbyterian Church and Coordinator of the Police Chaplain Corps.

Present: Mayor Roy M. Trantham, presiding; Councilmembers Norma T. Price, Gordon S. Myers, Larry S. McDevitt, Mary Lloyd Frank, Wilhelmina Bratton, Walter Boland, and W. Louis Bissett, Jr. Corporation Counsel William F. Slawter; City Manager K. M. Michalove; Associate City Manager/City Clerk William F. Wolcott, Jr.

OATHS OF OFFICE

The Oaths of Office for Councilman of the City of Asheville were administered by Judge Robert D. Lewis to the following:

Norma T. Price
Gordon S. Myers
Larry S. McDevitt
Mary Lloyd Frank
Wilhelmina Bratton
Walter Boland
W. Louis Bissette, Jr.

The members of Council introduced relatives in attendance.

ELECTION OF THE MAYOR

I. Mayor Trantham, acting as chairman of the Organizational Meeting, opened the floor for nominations for Mayor of the City of Asheville.

Councilman McDevitt moved, as a matter of procedure, that the election of the Mayor be as follows: 1) that the vote be taken in alphabetical order by voice vote; 2) that members of Council vote by name only for one candidate; 3) that in the event that three nominations are made that after the first vote the nominee with the least number of votes be eliminated if a nominee did not receive a majority vote. This motion was seconded by Councilwoman Bratton and carried unanimously.

Councilwoman Frank nominated Norma T. Price as Mayor of the City of Asheville.

Councilman Bissette nominated Larry McDevitt as Mayor of the City of Asheville.

Councilman Myers nominated Walter Boland as Mayor of the City of Asheville.

Councilman McDevitt moved that the nominations be closed. This motion was seconded by Councilwoman Frank and carried unanimously.

On a roll call vote:

Councilman Bissette voted for Councilman McDevitt;
Councilman Boland voted for Councilwoman Price;

Councilwoman Bratton voted for Councilman McDevitt;
Councilwoman Frank voted for Councilwoman Price;
Councilman McDevitt voted for Councilman McDevitt;
Councilman Myers voted for Councilman Boland;
Councilwoman Price voted for Councilwoman Price.

Pursuant to the predetermined procedure, Councilman Boland was eliminated from the nominations.

On the second roll call vote:

Councilman Bissette voted for Councilman McDevitt;
Councilman Boland voted for Councilwoman Price;
Councilwoman Bratton voted for Councilman McDevitt;
Councilwoman Frank voted for Councilwoman Price;
Councilman McDevitt voted for Councilman McDevitt;
Councilman Myers voted for Councilman McDevitt;
Councilwoman Price voted for Councilwoman Price.

By a vote of 4-3, Councilman McDevitt was elected Mayor.

Councilman Myers, before voting for Councilman McDevitt for Mayor, as a "preface" to his vote for Mayor said a resolution relative to the election process of the Mayor would be introduced later during the meeting, which would request a study of the feasibility of the Mayor being elected by the citizens of Asheville rather than by the seven (7) Council members. He said he would support the resolution. He said this is a difficult vote for him with the run off of two well-qualified nominees. He said his first choice was Walter Boland and he regretted the elimination of Boland. He cited Councilman McDevitt's standing as the leading vote-getter in the 1981 and 1983 City Council election and said this was an indication of his popular support and no one could discount that fact. He said he felt this would also indicate the citizen input into the Mayor's election and the citizen's choice. Therefore, he voted for Councilman McDevitt as Mayor of the City of Asheville.

Councilman McDevitt said he felt honored and humbled by being elected Mayor. He offered thanks to a loyal friend, Councilman Bissette, and for "two true acts of statesmanship" by votes of Councilman Myers and Councilwoman Bratton.

ELECTION OF VICE-MAYOR

Mayor McDevitt opened the floor for nominations for Vice-Mayor.

Councilwoman Price nominated Councilwoman Mary Lloyd Frank for Vice-Mayor.

Councilman Myers nominated Councilwoman Wilhelmina Bratton as Vice-Mayor.

Councilman Bissette moved that the nominations be closed. This motion was seconded by Councilman Boland and carried unanimously.

On a voice vote, Councilwoman Bratton was elected as Vice-Mayor. The vote being as follows:

Councilman Bissette voting for Councilwoman Bratton;
Councilman Boland voting for Councilwoman Bratton;
Councilwoman Frank voting for Councilwoman Frank;
Mayor McDevitt voting for Councilwoman Bratton;
Councilman Myers voting for Councilwoman Bratton;
Councilwoman Price voting for Councilwoman Frank.

RESOLUTION NO. 83-209 - RESOLUTION RELATIVE TO THE ELECTION PROCESS FOR MAYOR

Councilwoman Bratton read a resolution endorsing the concept of examining the feasibility of the Mayor being elected by the citizens rather than the present process of being elected by the seven (7) Council members. All members of Council made comments endorsing the resolution.

Upon motion of Councilwoman Bratton, seconded by Councilman Boland, Resolution No. 83-209 was unanimously adopted.

Complete text of Resolution No. 83-209 will be found in Resolution Book No. 14 at page 209.

RESOLUTION NO. 83-201- RESOLUTION OF APPRECIATION TO MAYOR ROY M. TRANTHAM

Mayor McDevitt read the resolution.

Upon motion of Councilwoman Price, seconded by Councilman Myers, Resolution No. 83-210 was unanimously adopted.

Mayor McDevitt presented Mayor Trantham with a copy of the resolution, an appreciation plaque, and his name plate to Mayor Trantham.

Complete text of Resolution No. 83-210 will be found in Resolution Book No. 14 at page 211.

RESOLUTION NO. 83-211 - RESOLUTION OF APPRECIATION TO PAUL JOSPEH "JOE" PLESS

Mayor McDevitt read the resolution.

Upon motion of Vice-Mayor Bratton, seconded by Councilman Myers, Resolution No. 83-211 was unanimously adopted.

Mayor McDevitt presented a copy of the resolution, an appreciation plaque, and his name plate to Councilman Pless.

Complete text of Resolution No. 83-211 will be found in Resolution Book No. 14 at page 211.

ADJOURNMENT

Mayor McDevitt adjourned the Organizational Meeting and called for a brief recess before opening the Regular Meeting of December 6, 1983.

Ray McDevitt
MAYOR

Norman F. Malcolm
CITY CLERK

Pursuant to the predetermined procedure, Councilman Boland was eliminated from the nominations.

On the second roll call vote:

Councilman Bissette voted for Councilman McDevitt;
Councilman Boland voted for Councilwoman Price;
Councilwoman Bratton voted for Councilman McDevitt;
Councilwoman Frank voted for Councilwoman Price;
Councilman McDevitt voted for Councilman McDevitt;
Councilman Myers voted for Councilman McDevitt;
Councilwoman Price voted for Councilwoman Price.

Councilman Myers, before voting for Councilman McDevitt for Mayor, as a "preface" to his vote for Mayor said a resolution relative to the election process of the Mayor would be introduced later during the meeting, which would request a study of the feasibility of the Mayor being elected by the citizens of Asheville rather than by the seven (7) Council members. He said he would support the resolution. He said this is a difficult vote for him with the run off of two well-qualified nominees. He said his first choice was Walter Boland and he regretted the elimination of Boland. He cited Councilman McDevitt's standing as the leading vote-getter in the 1981 and 1983 City Council election and said this was an indication of his popular support and no one could discount that fact. He said he felt this would also indicate the citizen input into the Mayor's election and the citizen's choice. Therefore, he voted for Councilman McDevitt as Mayor of the City of Asheville.

Councilman McDevitt said he felt honored and humbled by being elected Mayor. He offered thanks to a loyal friend, Councilman Bissette, and for "two true acts of statesmanship" by votes of Councilman Myers and Councilwoman Bratton.

ELECTION OF VICE-MAYOR

Mayor McDevitt opened the floor for nominations for Vice-Mayor.

Councilwoman Price nominated Councilwoman Mary Lloyd Frank for Vice-Mayor.

Councilman Myers nominated Councilwoman Wilhelmina Bratton as Vice-Mayor.

Councilman Bissette moved that the nominations be closed. This motion was seconded by Councilman Boland and carried unanimously.

On a voice vote, Councilwoman Bratton was elected as Vice-Mayor. The vote being as follows:

Councilman Bissette voting for Councilwoman Bratton;
Councilman Boland voting for Councilwoman Bratton;
Councilwoman Frank voting for Councilwoman Frank;
Mayor McDevitt voting for Councilwoman Bratton;
Councilman Myers voting for Councilwoman Bratton;
Councilwoman Price voting for Councilwoman Frank.

5. Consideration was given to the second reading of Ordinance No. 1413, an ordinance amending Ordinance No. 322, known as "an ordinance providing for the zoning of the City of Asheville," (rezoning property located at 18 Johnston Blvd.).

Mayor McDevitt said this ordinance was previously read on first reading on November 29, 1983.

Verl Emrick, Director of Planning, reviewed the background of the rezoning issue at 18 Johnston Blvd.

On a roll call vote of 7-0, Ordinance No. 1413 passed on second reading.

Councilwoman Price moved to suspend the rules and proceed to the third reading of Ordinance No. 1413. This motion was seconded by Councilwoman Frank and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1413 passed on third and final reading.

Complete text of Ordinance No. 1413 will be found in Ordinance Book No. 10 at page 90.

SCHEDULING PUBLIC HEARING - CHANGING NAMES OF CERTAIN STREETS IN THE CITY OF ASHEVILLE (COLLEGE STREET AND WOODFIN STREET)

6. Consideration was given to a motion scheduling a public hearing to consider a resolution to change names of certain streets in the City of Asheville.

NOTE: A public hearing will be held on December 20, 1983 to consider changing the section of College Street extending easterly from Pine Street to dead-end past the Allen Center at the North Carolina Department of Transportation's right-of-way line be renamed to College Park Place and the section of Woodfin Street extending easterly from Charlotte Street I-240 be renamed Woodfin Place.

Councilman Boland moved to schedule the public hearing for December 20, 1983. This motion was seconded by Councilwoman Price and carried unanimously.

CLAIMS - NANCY SNYPES (WATER & SEWER) - B & B PHARMACY (STREETS) - LENA WATERS (WATER & SEWER)

The City Manager presented claims received from Nancy Snypes, B & B Pharmacy, and Lena Waters.

Mayor McDevitt presented the claims to the Corporation Counsel for investigation and recommendation.

LAWSUITS - COUNTY OF BUNCOMBE - TIPPING FEES

The City Manager presented a summons received in connection with a lawsuit involving the County of Buncombe relative to tipping fees.

Mayor McDevitt presented the summons to the Corporation Counsel for investigation.

Tuesday - December 6, 1983 - 4:00 p.m.

Regular Meeting

Present: Mayor Larry McDevitt, Presiding; Vice-Mayor Wilhelmina Bratton; Councilwomen Mary Lloyd Frank and Norma T. Price; Councilmen Gordon Myers, Walt Boland, and Louis Bissette; Corporation Counsel William F. Slawter; City Manager K. M. Michalove; Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: None

APPROVAL OF THE MINUTES

1. Approval of the minutes of November 29, 1983 meeting.

Upon motion of Councilwoman Frank, seconded by Councilman Myers, the minutes of the November 29, 1983 meeting were unanimously approved as submitted.

ORDINANCE NO. 1409 - AN ORDINANCE ANNEXING A NON-CONTIGUOUS AREA ON US 19-23 WEST

2. Consideration was given to the second reading of Ordinance No. 1409, an ordinance annexing a non-contiguous area on US 19-23 West (Ramada Inn). Mayor McDevitt said this ordinance was passed on first reading on November 29, 1983.

On a roll call vote of 7-0, Ordinance No. 1409 passed on second reading.

ORDINANCE NO. 1411 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED (REZONING PROPERTY LOCATED ON FAIRVIEW AND RIDGECREST ROADS)

3. Consideration was given to the third reading of Ordinance No. 1411, an ordinance amending Ordinance No. 322, known as "an ordinance providing for the zoning of the City of Asheville," as amended (rezoning property located on Fairview and Ridgecrest roads).

Mayor McDevitt said this ordinance was previously read on first and second readings on November 29, 1983.

On a roll call vote of 7-0, Ordinance No. 1411 passed on third reading.

Complete text of Ordinance No. 1411 will be found in Ordinance Book No. 10 at page 88.

ORDINANCE NO. 1412 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED (REZONING PROPERTY LOCATED AT HENDERSONVILLE ROAD AND SEMINOLE STREET)

Mayor McDevitt said this ordinance was read on first reading on November 29, 1983.

On a roll call vote of 7-0, Ordinance No. 1412 passed on second reading.

ORDINANCE NO. 1413 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED (REZONING PROPERTY LOCATED AT 18 JOHNSTON BLVD.)

Tuesday - December 13, 1983 - 4:00 p.m.

Regular Meeting

Present: Mayor Larry McDevitt, Presiding; Vice-Mayor Wilhelmina Bratton; Councilwomen Mary Lloyd Frank and Norma T. Price; Councilmen Gordon Myers, Walt Boland, and Louis Bissette; Corporation Counsel William F. Slawter; City Manager K. M. Michalove, Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: None

INVOCATION

The invocation was given by Councilman Bissette.

APPROVAL OF THE MINUTES

1. Approval of the minutes of the Organizational and Regular Meeting of December 6, 1983.

Mayor McDevitt presented several corrections to the City Clerk.

Upon motion of Councilwoman Price, seconded by Councilman Boland, the minutes of the Organizational and Regular meeting of December 6, 1983 were unanimously approved, as amended.

PRESENTATION OF "LIFE. BE IN IT" AWARD - ASHEVILLE PARKS AND RECREATION DEPARTMENT

2. Mr. Harold Moses, Chief of Recreation, of North Carolina Parks and Recreation Society, presented Mr. Kisiah, Director of Parks, Recreation, and Public Facilities Department, with a "Life. Be In It" Award. He said this was in connection with the "Summer Playground Program" involving more than 400 children in the City of Asheville.

Mr. Kisiah recognized the Parks, Recreation, and Public Facilities employees involved in the program. He said Leslie Anderson, Superintendent of Recreation, initiated the program. He recognized Reverend Walter Mapp and Mr. King with the Optimist Club who was also involved in the program as well as the employees involved.

ORDINANCE NO. 1418 - BUDGET ORDINANCE AMENDMENT TO SET UP COST ALLOCATION PLAN FOR COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

3. Consideration was given to a budget ordinance amendment to set up Cost Allocation Plan for Community Development Block Grant Program.

The City Manager said members of Council were furnished copies of the ordinance and it would not be read in its entirety.

Councilwoman Frank moved for the adoption of Ordinance No. 1418. This motion was seconded by Councilman Bissette.

On a roll call vote of 7-0, Ordinance No. 1418 passed on first and final reading.

RALPH BISHOP - COMMENTS RELATIVE TO COUNCIL MEMBERS AND OBTAINING CITY RECORDS

Ralph Bishop made comments to Council relative to their oaths of office and his difficulty in receiving City records.

ADJOURNMENT

Upon motion, the meeting adjourned at 5:05 p.m.

Ray McDaith
MAYOR

William F. Nolte
CITY CLERK

ORDINANCE NO. 1409 - AN ORDINANCE ANNEXING A NON-CONTIGUOUS AREA ON US 19-23 WEST (RAMADA INN)

6. Consideration was given to the third reading of Ordinance No. 1409, an ordinance annexing a non-contiguous area on US 19-23 West (Ramada Inn).

Mayor McDevitt said this ordinance was previously read on first and second reading and would not be re-read in its entirety unless there was a specific request to do so.

Corporation Counsel, Bill Slawter, requested that the ordinance be amended to include the effective date of January 1, 1984.

Councilwoman Price moved to amend Ordinance No. 1409 to include the effective date of January 1, 1984. This motion was seconded by Councilman Myers and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1409 passed on third and final reading, as amended.

Complete text of Ordinance No. 1409 will be found in Ordinance Book No. 10 at page 84-85.

ORDINANCE NO. 1412 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE" AS AMENDED (REZONING PROPERTY LOCATED AT HENDERSONVILLE ROAD AND SEMINOLE STREET)

7. Consideration was given to the third reading of Ordinance No. 1412, an ordinance amending Ordinance No. 322, known as "An ordinance providing for the zoning of the City of Asheville" as amended (rezoning property located at Hendersonville Road and Seminole Street).

Mayor McDevitt said this ordinance was previously read on first and second reading and would not be re-read in its entirety unless there was a specific request to do so.

On a roll call vote of 7-0, Ordinance No. 1412 passed on third and final reading.

Complete text of Ordinance No. 1412 will be found in Ordinance Book No. 10 at page 89.

RESOLUTION NO. 83-212 - RESOLUTION AUTHORIZING THE MAYOR ON BEHALF OF THE CITY OF ASHEVILLE TO EXECUTE A CONTRACT WITH THE HOUSING AUTHORITY OF THE CITY OF ASHEVILLE FOR THE OPERATION OF HILLCREST RECREATION CENTER AND ENRICHMENT PROGRAM

8. Consideration was given to a resolution authorizing the Mayor, on behalf of the City of Asheville, to execute a contract with the Housing Authority of the City of Asheville for the operation of Hillcrest Recreation Center and Enrichment Program.

The City Manager said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Complete text of Ordinance No. 1418 will be found in Ordinance Book No. 10 at page 95.

ORDINANCE NO. 1419 - BUDGET ORDINANCE AMENDMENT TO PROVIDE FUNDING, WHERE NEEDED, FOR PROVISION OF SERVICES TO ANNEXED AREAS

4. Consideration was given to a budget ordinance amendment to provide funding, where needed, for provision of services to annexed areas.

The City Manager said members of Council were furnished copies of the ordinance and it would not be read in its entirety.

Councilwoman Price moved for the adoption of Ordinance No. 1419. This motion was seconded by Councilwoman Frank.

On a roll call vote of 7-0, Ordinance No. 1419 passed on first and final reading.

Complete text of Ordinance No. 1419 will be found in Ordinance Book No. 10 at page 96.

ORDINANCE NO. 1420 - AN ORDINANCE AMENDING SECTION 28-81.6 AND SECTION 28-81.7 OF ARTICLE IV, SPEED REGULATIONS, OF CHAPTER 28 OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE

5. Consideration was given to an ordinance amending Section 28-81.6 and Section 28-81.7 of Article IV, Speed Regulations, of Chapter 28 of the Code of Ordinances of the City of Asheville.

Mayor McDevitt said this ordinance will change the speed limits on Sweeten Creek Road and Hendersonville Road to 45 MPH and change Patton Avenue to 50 MPH. He said the primary purpose of this action is to adopt a concurring ordinance with the North Carolina Department of Transportation to establish speed limits on state system streets within newly annexed areas.

Councilwoman Frank moved for the adoption of Ordinance No. 1420. This motion was seconded by Councilman Boland.

On a roll call vote of 7-0, Ordinance No. 1420 passed on first reading.

Councilwoman Price moved to suspend the rules and proceed with the second reading of Ordinance No. 1420. This motion was seconded by Councilman Myers and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1420 passed on second reading.

Councilwoman Price moved to suspend the rules and proceed to the third and final reading of Ordinance No. 1420. This motion was seconded by Councilman Myers and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1420 passed on third and final reading.

Complete text of Ordinance No. 1420 will be found in Ordinance Book No. 10 at page 97.

SCHEDULING OF PUBLIC HEARING - RENOVATIONS OF THE ICU AND CARDIOLOGY UNITS - MEMORIAL MISSION HOSPITAL

11. Councilman Myers moved to schedule a public hearing relative to the site plan of the proposed renovation of the ICU and cardiology units and construction of a free-standing ambulatory surgery center at Memorial Mission Hospital for January 10, 1984. This motion was seconded by Councilman Bissette and carried unanimously.

RESOLUTION NO. 83-215 - RESOLUTION CONSIDERING THE APPROVAL OF DESIGN CONCEPTS FOR DOWNTOWN REVITALIZATION PROPOSALS

The City Manager presented a resolution considering the approval of design concepts for downtown revitalization proposals.

The City Manager read the resolution, stating that the Asheville City Council accepts the recommendation by the Asheville Downtown Commission and approves in concept those designs schematics submitted by the Downtown Commission.

Upon motion of Councilwoman Price, seconded by Vice-Mayor Bratton, Resolution No. 83-215 was unanimously adopted.

Councilman Boland noted that Council was only approving the concepts and the specifics of the schematics could be changed.

Gary Owen, property owner in the downtown area, said it was his understanding this resolution would authorize the continuation of the development plan for downtown. He said he would like to see the final plan before Council approves the plan.

Ralph Bishop spoke in opposition to the resolution.

Complete text of Resolution No. 83-215 will be found in Resolution Book No. 14 at page 215.

SCHEDULING OF PUBLIC HEARING - APPLICATION FOR UMTA GRANT

Councilwoman Price moved to schedule a public hearing for January 17, 1984 to consider the application for the UMTA grant. This motion was seconded by Councilman Boland and carried unanimously.

CLAIMS - EVONNE MARTIN (WATER & SEWER) - VINCENT BRADLEY (WATER & SEWER)

The City Manager presented claims received from Evonne Martin and Vincent Bradley.

Mayor McDevitt referred the claims to the Corporation Counsel for investigaton.

PRESENTATION OF WHITE GLOVE WREATH - QUALITY FORWARD

The City Manager said a White Glove Wreath was presented to the employees of the Asheville City Manager and City Council to thank them for the assistance and cooperation given to Quality Forward during the past year. He said the wreath was made by a group of school children.

Upon motion of Councilman Boland, seconded by Councilwoman Frank, Resolution No. 83-212 was unanimously adopted.

Complete text of Resolution No. 83-212 will be found in Resolution Book No. 14 at page 212.

RESOLUTION NO. 83-213 - RESOLUTION AUTHORIZING THE PURCHASING DIRECTOR TO DISPOSE OF PROPERTY BY PRIVATE SALE AT A NEGOTIATED PRICE

9. Consideration was given to a resolution authorizing the Purchasing Director to dispose of property by private sale at a negotiated price.

The City Manager said members of Council were furnished copies of the resolution and it would not be read in its entirety.

NOTE: The Motor Transport Division of the City of Asheville has approximately 200-300 used tires, miscellaneous scrap metal items, and various junk automotive parts, and tools for which the City has no use. The Motor Transport Superintendent has declared these items surplus. This resolution will authorize the Purchasing Director to dispose of the property by private sale at a negotiated price.

Mayor McDevitt noted that additional revenue is anticipated, by this action, of $200-$400.

Upon motion of Councilwoman Price, seconded by Vice-Mayor Bratton, Resolution No. 83-213 was unanimously adopted.

Complete text of Resolution No. 83-213 will be found in Resolution Book No. 14 at page 213.

RESOLUTION NO. 83-214 - RESOLUTION AUTHORIZING THE MAYOR ON BEHALF OF THE CITY OF ASHEVILLE TO EXECUTE THE NECESSARY DOCUMENTS FOR THE PURCHASE OF THE MAGGIE REMEURT PROPERTY ON 31 WEST CHESTNUT STREET, ASHEVILLE, NORTH CAROLINA

10. Consideration was given to a resolution authorizing the Mayor, on behalf of the City of Asheville, to execute the necessary documents for the purchase of the Maggie Remeurt property at 31 West Chestnut Street, Asheville, North Carolina.

The City Manager said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Mayor McDevitt noted that this resolution will authorize the purchase of the property for use in the required right-of-way for the Chestnut Street Bridge repairs.

Upon motion of Councilwoman Frank, seconded by Councilman Boland, Resolution No. 83-214 was unanimously adopted.

Complete text of Resolution No. 83-214 will be found in Resolution Book No. 14 at page 214.

Tuesday - December 20, 1983 - 4:00 p.m.

Regular Meeting

Present: Mayor Larry McDevitt, Presiding; Vice-Mayor Wilhelmina Bratton; Councilwomen Mary Lloyd Frank and Norma T. Price; Councilmen Gordon Myers, Walter Boland, and Louis Bissette; Corporation Counsel William F. Slawter; City Manager K. M. Michalove, Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: None

INVOCATION

The invocation was given by Councilman Walter Boland.

APPROVAL OF THE MINUTES

1. Approval of the minutes of the December 13, 1983 meeting.

Upon motion of Councilwoman Frank, seconded by Councilman Bissette, the minutes of the December 13, 1983 meeting were unanimously approved as submitted.

PROCLAMATION - "BLOOD DONOR MONTH" - JANUARY, 1984

Mayor McDevitt proclaimed the month of January, 1984 as "Blood Donor Month."

Mayor McDevitt presented the proclamation to Beth Adkins of the American Red Cross.

RECOGNITION OF LOGAN DELANY - APPOINTED TO BOARD OF NATURAL RESOURCES AND COMMUNITY DEVELOPMENT

2. The City Manager read a letter from Governor Jim Hunt, which appointed Logan Delany, Director of Community Development, as a member of the Board of Natural Resources and Community Development. The City Manager and members of Council recognized Mr. Delany for this achievement.

PUBLIC HEARING - CHANGING NAMES OF CERTAIN STREETS IN THE CITY OF ASHEVILLE

3. A public hearing was held relative to changing names of certain streets in the City of Asheville.

Mayor McDevitt opened the public hearing at 4:08 p.m.

The City Manager presented the notice to the public, setting the time and date for the public hearing and affidavit of publication.

Mayor McDevitt said this would change that section of College Street extending easterly from Pine Street to dead end past the Allen Center at the North Carolina Department of Transportation's right-of-way line to be renamed to College Park Place and change that section of Woodfin Street extending easterly from Charlotte Street to I-240 to be renamed to Woodfin Place.

RESOLUTION - ..... - RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ASHEVILLE, NORTH CAROLINA APPROVING THE ISSUANCE OF FIRST MORTGAGE REVENUE BONDS TO FINANCE AN 80-BED REST HOME FACILITY FOR MOUNTAINVIEW VILLA OF ASHEVILLE, A NORTH CAROLINA GENERAL PARTNERSHIP

Consideration was given to a resolution of the City Council of the City of Asheville, North Carolina approving the issuance of first mortgage revenue bonds to finance an 80-bed rest home facility for Mountainview Villa of Asheville, a North Carolina general partnership.

The City Manager said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Mr. Kenneth Gummels, of Victoria of Asheville, Inc., reviewed the background of the involvement of the City of Asheville with the Victoria Health Care Center, located at 455 Victoria Street in the City of Asheville for the benefit of the new members of Council.

After a brief discussion, Mayor McDevitt said several members of Council had questions relative to the resolution and suggested that the resolution be tabled until next week, providing an opportunity for Victoria of Asheville, Inc. to provide answers to these questions to the Corporation Counsel.

RALPH BISHOP - COMMENTS RELATIVE TO CITY RECORDS

Ralph Bishop again spoke to members of Council relative to his difficulty in receiving City records.

ADJOURNMENT

Councilwoman Frank moved to adjourn the meeting at 5:00 p.m. This motion was seconded by and carried unanimously.

Lee McDevitt
MAYOR

William F. Holcomb
CITY CLERK

January 10, 1984 and January 17, 1984 at 4:00 p.m. in the Lord Auditorium in the Asheville-Buncombe Library -- Central-67 Haywood Street, Asheville, North Carolina. This motion was seconded by Councilman Boland and carried unanimously.

DISCUSSION RELATIVE TO NEW TELEPHONE SYSTEM

Mayor McDevitt said a meeting would be held with the Buncombe County Commissioners and the Asheville City Council on December 29, 1983 to further discuss a new telephone system.

Mr. Gene McKinney of Southern Bell, expessed several concerns relative to the options and the City accepting a new telephone system. He said he would be adding input at the meeting on December 29, 1983.

Mr. Bob Long, Attorney for East-West Telecommunications, said his firm was low bidder for the telephone system and public funds should go to low bidders. He said he would also be attending the meeting on December 29, 1983.

CANCELLING CITY COUNCIL MEETING - DECEMBER 27, 1983 AND JANUARY 3, 1984

Councilman Myers moved to cancel the City Council meeting scheduled for December 27, 1983 and January 3, 1984. This motion was seconded by Vice-Mayor Bratton and carried unanimously.

PRESENTATION OF BOOK, "ASHEVILLE; A PICTORIAL HISTORY"

Mayor McDevitt said he attended a presentation at the Smith-McDowell house for the book entitled, "Asheville; A Pictorial History." He said a copy of the book was presented to the City of Asheville by Mitiz Tessier. He said this book would be put in the City Archives. He said the book can be purchased for $24.95.

SCHEDULING PUBLIC HEARING - SITE PLAN OF PROPOSED APARTMENT COMPLEX - KENNILWORTH DRIVE

Councilman Myers moved to schedule a public hearing relative to the site plan of a proposed 20-unit apartment complex to be located on Kennilworth Drive for January 17, 1984. This motion was seconded by Councilman Bissette and carried unanimously.

CLAIMS - HARRY MASHBURN (SEWER) - STEVEN FRANTZ (SEWER) - LAWRENCE RICE (SEWER)

LAWSUITS - DUNCAN AND RUTH W. SINCLAIR (STORM DRAIN) - ASHEVILLE HOUSING AUTHORITY (CONDEMNATION OF ROBERT AND EVELYN RUSSELL PROPERTY - EAST END/VALLEY STREET)

The City Manager presented claims received from Harry Mashburn, Steven Frantz, and Lawrence Rice, and summonses in connection with lawsuits involving Duncan and Ruth W. Sinclair relative to a deterioration of a storm drain and the Asheville Housing Authority relative to the condemnation of Robert and Evelyn Russell property in the East End/Valley Street area.

Mayor McDevitt referred the claims and summonses to the Corporation Counsel for investigation and recommendation.

The City Manager said his office had received a call from Mr. Peter Scheenstra, of the Family Service Center in the Allen Center, requesting that the name "College Place" be used rather than "College Park Place." He said "College Place" is shorter and easier.

After a brief discussion, Councilwoman Price moved to continue the public hearing until January 10, 1984 without further advertisement. This motion was seconded by Councilman Boland and carried unanimously.

ORDINANCE NO. 1421 - BUDGET ORDINANCE AMENDMENT TO SET UP CAPITAL BUDGETS FOR THE CIVIC CENTER ROOF REPAIRS, CITY BUILDING ROOF REPAIRS AND MUNICIPAL BUILDING ROOF AND STRUCTURAL REPAIRS

4. Consideration was given to a budget ordinance amendment to set up capital budgets for the Civic Center roof repairs, City Building roof repairs, and Municipal Building roof and structural repairs.

The City Manager said members of Council were furnished copies of the ordinance and it would not be read in its entirety.

Councilwoman Frank moved for the adoption of Ordinance No. 1421. This motion was seconded by Councilwoman Price.

On a roll call vote of 7-0, Ordinance No. 1421 passed on first and final reading.

Complete text of Ordinance No. 1421 will be found in Ordinance Book No. 10 at page 98.

RESOLUTION NO. 83-216 - RESOLUTION DECLARING THE INTENTION OF THE CITY OF ASHEVILLE, NORTH CAROLINA, WITH RESPECT TO THE PROPOSED PLAN OF FINANCING THE COST OF CONSTRUCTING AND ACQUIRING A REST HOME IN THE CITY OF ASHEVILLE BY A NON-PROFIT CORPORATION AND AGREEMENT TO ACCEPT A GRANT TO THE CITY OF ASHEVILLE OF TITLE TO SUCH REST HOME UPON RETIREMENT OF THE BONDS TO BE ISSUED PURSUANT TO SUCH PLAN

5. Consideration was given to a resolution declaring the intention of the City of Asheville, North Carolina, with respect to the proposed plan of financing the cost of constructing and acquiring a rest home in the City of Asheville by a non-profit corporation and agreement to accept a grant to the City of Asheville of title to such rest home upon retirement of the bonds to be issued pursuant to such plan.

Corporation Counsel Bill Slawter outlined the contents of the resolution.

Upon motion of Councilman Myers, seconded by Vice-Mayor Bratton, Resolution No. 83-216 was unanimously adopted.

Complete text of Resolution No. 83-216 will be found in Resolution Book No. 14 at page 216-221.

SCHEDULING OF PUBLIC HEARINGS - UDAG (URBAN DEVELOPMENT ACTION GRANT) APPLICATION

6. Councilwoman Price moved to schedule public hearings relative to the needs for and impact of UDAG (Urban Development Action Grant) application for

Upon motion of Councilman Boland, seconded by Councilman Bissette, Resolution No. 83-218 was unanimously adopted.

Complete text of Resolution No. 83-218 will be found in Resolution Book No. 14 at page 223.

RESOLUTION NO. 83-219 - RESOLUTION APPOINTING MEMBER TO THE ASHEVILLE REGIONAL AIRPORT AUTHORITY (HAROLD C. ENLOE)

Consideration was given to a resolution reappointing Mr. Harold C. Enloe as a member of the Asheville Regional Airport Authority.

The City Manager read the resolution.

Upon motion of Councilman Bissette, seconded by Councilwoman Price, Resolution No. 83-219 was unanimously adopted.

Complete text of Resolution No. 83-219 will be found in Resolution Book No. 14 at page 224.

RESOLUTION NO. 83-220 - RESOLUTION REAPPOINTING MEMBERS TO THE BOARD OF DIRECTORS OF THE ASHEVILLE/BUNCOMBE COMMUNITY RELATIONS COUNCIL (MRS. FLORENCE RYAN AND MR. JAMES M. PRESSLEY)

Consideration was given to a resolution reappointing Mrs. Florence Ryan and Mr. James M. Pressley as members of the Board of Directors of the Asheville/Buncombe Community Relations Council.

The City Manager read the resolution.

Upon motion of Vice-Mayor Bratton, seconded by Councilwoman Frank, Resolution No. 83-220 was unanimously adopted.

Complete text of Resolution No. 83-220 will be found in Resolution Book No. 14 at page 225.

DISCUSSION RELATIVE TO UDAG GRANTS - PROBLEMS WITH HEAVY LARCENY IN DOWNTOWN

Mr. of , requested clarification of the schedule for the UDAG public hearings.

Mayor McDevitt explained to Mr. the schedule for the public hearings and said all developers are still on schedule as to providing financial data to the Downtown Commission on January 3, 1984.

Mr. expressed concerns relative to heavy larceny in the downtown area, particularly on Wall Street. He said they needed more police protection for merchants and customers.

Mayor McDevitt told Mr. that the Council would take this under consideration.

AMENDMENT TO CONTRACT WITH HOUSING AUTHORITY RELATIVE TO REDEVELOPMENT PLAN PURSUANT TO RESOLUTION NO. 83-203

Corporation Counsel Bill Slawter requested that the contract with the Housing Authority for a redevelopment plan as authorized by Resolution No. 83-203 be amended as follows:

> "Section 3. Authority shall contract for certain professional services which include, but are not limited to, legal and appraisal services. Selection of said services by the Authority shall be in compliance with the applicable law, rules or regulations.
>
> Section 4. The Authority staff shall meet with the City staff to determine a work program/schedule for each zone in the redevelopment areas. The Director of the Housing Authority shall receive said work program/schedule from the City Planning Director and commence implementation accordingly. The City Planning Director shall coordinaate activities among all involved agencies/organizations; further the City Planning Director shall have final responsibility for assurance that the projects proceed in the timely manner as so described in the terms and conditions of the work program/schedule."

After discussion, Vice-Mayor Bratton moved to authorize the amendment to the contract as outlined by the Corporation Counsel. This motion was seconded by Councilman Bissette and carried unanimously.

RESOLUTION NO. 83-217 - RESOLUTION DIRECTING THE ASHEVILLE HOUSING AUTHORITY TO PREPARE THE REDEVELOPMENT PLAN FOR THE WALL STREET PROJECT AREA

Consideration was given to a resolution directing the Asheville Housing Authority to prepare the redevelopment plan for the Wall Street project area.

The City Manager read the resolution stating that this would direct and authorize the Housing Authority to proceed with the preparation of the redevelopment plan for zones 1 and 2 as described in the contract for services.

Upon motion of Councilman Boland, seconded by Councilwoman Price, Resolution No. 83-217 was unanimously adopted.

Complete text of Resolution No. 83-271 will be found in Resolution Book No. 14 at page 222.

RESOLUTION NO. 83-218 - RESOLUTION PROPOSING TO MAKE CERTAIN IMPROVEMENTS UNDER THE FEDERAL-AID HIGHWAY BRIDGE REPLACEMENT AND REHABILITATION PROGRAM OF THE STRUCTURES ON HAZEL MILL ROAD OVER SOUTHERN RAILWAY, THOMPSON STREET OVER SWEETEN CREEK AND MURDOCK AVENUE OVER REED CREEK

Consideration was given to a resolution proposing to make certain improvements under the Federal-Aid Highway Bridge Replacement and Rehabilitiation program of the structures on Hazel Mill Road over Southern Railway, Thompson Street over Sweeten Creek and Murdock Avenue over Reed Creek.

The City Manager read the resolution.

Tuesday - January 10, 1984 - 4:00 p.m.
Lord Auditorium - Library
67 Haywood Street, Asheville, N. C.

Regular Meeting

Present: Mayor Larry McDevitt, Presiding; Vice-Mayor Wilhelmina Bratton; Councilwomen Mary Lloyd Frank and Norma T. Price; Councilmen Gordon Myers, Walt Boland, and Louis Bissette; Corporation Counsel William F. Slawter; City Manager K. M. Michalove, Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: None

INVOCATION

The invocation was given by Norma T. Price.

APPROVAL OF THE MINUTES

1. Approval of the minutes of the December 20, 1983 meeting. Upon motion of Councilwoman Price, seconded by Vice-Mayor Bratton, the minutes of the December 20, 1983 meeting were unanimously approved as submitted.

RESOLUTION NO. 83-221 - RESOLUTION IN MEMORIUM OF PAUL M. DUTCHER

1. Consideration was given to a resolution in memorium of Paul M. Dutcher.

Mayor McDevitt read the resolution stating that Paul M. Dutcher was an employee of the City of Asheville for over twenty-eight years until his untimely death on January 2, 1984.

Upon motion of Councilman Boland, seconded by Councilwoman Price, Resolution #83-221 was unanimously adopted.

Mayor McDevitt recognized Mrs. Paul Dutcher and her daughters who were in attendance at the meeting and presented a copy of the resolution to her.

Mrs. Dutcher thanked all City employees who helped during Paul's illness, and all the people who sent cards and letters and made phone calls.

Complete text of Resolution No. 83-221 will be found in Resolution No. 14 at page 226.

PROCLAMATION - "DOCTOR MARTIN LUTHER KING, JR. WEEK" - JANUARY 8 - 14, 1984

3. Mayor McDevitt read a proclamation proclaiming the week of January 8-14, 1984 as "Doctor Martin Luther King, Jr. Week."

PUBLIC HEARING - NEEDS FOR AN IMPACT OF UDAG (URBAN DEVELOPMENT ACTION GRANT) APPLICATION

4. A public hearing was held relative to the needs for an impact of UDAG (Urban Development Action Grant) application.

Mayor McDevitt opened the public hearing at 4:11 p.m.

RALPH BISHOP - COMMENTS RELATIVE TO RECEIVING POLICE PENSION RECORDS

Mr. Ralph Bishop again spoke to Council relative to his difficulty in receiving records relative to the Police Pension Board.

ADJOURNMENT

Upon motion the meeting adjourned at 4:50 p.m.

Jay McDevitt
MAYOR

CITY CLERK

PUBLIC HEARING - PROPOSED RENOVATION OF THE ICU AND CARDIOLOGY UNITS - AMBULATORY SURGERY UNIT - MEMORIAL MISSION HOSPITAL

6. A public hearing was held relative to the site plan of the proposed renovation of the ICU and cardiology units and construction of a free standing ambulatory surgery center at Memorial Mission Hospital.

Mayor McDevitt opened the public hearing at 4:29 p.m.

The City Manager presented the notice to the public and affidavit of publication for the public hearing.

Verl Emrick, Director of Planning, said that the Asheville Planning and Zoning Commission at a meeting held December 7, 1983, reviewed the site plan of the proposed renovation of ICU and cardiology units and construction of a free- standing ambulatory surgery center at Memorial Mission Hospital. The site plan was submitted by Russell E. Danielson, Vice-President of Planning for the Hospital, in accordance with the Group Development section of the Asheville Zoning Ordinance. After review and discussion of the plan, the Commission voted to recommend approval to City Council subject to compliance with the Erosion Control Ordinance. He said this would be an addition to the Hospital's master plan consisting of 10,500 square feet. He said the project meets all the requirements of the Zoning Ordinance.

Mr. Thompson, Arctitect Site Representative, for the Hospital, spoke in support of the project, stating that this would basically help lower hospital costs. He said he had been in contact with the Erosion Control Officer and was told that erosion control compliance is not a requirement due to the nature of the project.

Mayor McDevitt closed the public hearing at 4:34 p.m.

Councilman Bissette moved to approve the site plan of the proposed renovation of the ICU and cardiology units and construction of a free standing ambulatory surgery center at Memorial Mission Hospital. This motion was seconded by Councilwoman Price and carried unanimously.

CONTINUATION OF PUBLIC HEARING - CHANGING NAMES OF CERTAIN STREETS IN THE CITY OF ASHEVILLE (COLLEGE PLACE) (WOODFIN PLACE)

RESOLUTION NO. 83-223 - CHANGING NAMES OF CERTAIN STREETS IN THE CITY OF ASHEVILLE (COLLEGE PLACE) (WOODFIN PLACE)

7. A public hearing relative to changing names of certain streets in the City of Asheville was continued.

Mayor McDevitt said this public hearing was continued from the December 20, 1983 meeting. He said this would change that section of College Street extending easterly from Pine Street to dead-end past the Allen Center to the North Carolina Department of Transportation right-of-way line to be renamed to College Park Place and that section of Woodfin Street extending easterly from Charlotte Street to I-240 to be renamed to Woodfin Place.

Mayor McDevitt said during the discussion of the resolution in Pre-Council, it was the consensus of Council to name the street College Place rather than College Park Place.

The City Manager said the main reason for delaying this resolution was to give property owners affected an opportunity to be heard. He said certified mail

The City Manager presented the notice to the public and affidavit of publication for the public hearing.

Verl Emrick, Director of Planning, said the UDAG applications were for two projects sponsored by the Downtown Commission and City of Asheville in the amount of $13,000,000.00. He said the applications must be submitted by the end of January, 1984. He said Federal Government guidelines require public hearings to be held relative to the needs for an impact of UDAG applications.

Mayor McDevitt said the Downtown Commission would be holding a public hearing relative to the two projects on Wall Street and South Pack Square Plaza at 5:30 p.m. today.

Mr. Barry Owen, property owner on Wall Street, questioned the blighted study done on twenty-six buildings downtown as it pertained to the eligibility of a UDAG Grant. He also questioned the area in the Wall Street area having substandard buildings. He said several property owners on Wall Street have made improvements to their buildings and are concerned that their property may be taken by eminent domain and given to someone else. He said their only concern was to protect their properties.

Mayor McDevitt indicated that Council would keep his concerns in mind.

Ralph Bishop spoke in opposition to any downtown revitalization.

Mayor McDevitt closed the public hearing at 4:25 p.m.

PUBLIC HEARING - CLOSING AN ALLEYWAY AT THE WESTERN - MOST EXTENSION OF FIRST STREET IN BILTMORE

RESOLUTION NO. 83-222 - RESOLUTION TO CLOSE AN ALLEYWAY THAT IS THE WESTERN MOST EXTENSION OF FIRST STREET IN THE CITY OF ASHEVILLE, NORTH CAROLINA

5. A public hearing was held relative to closing an alleyway that is the western most extension of First Street in Biltmore.

Mayor McDevitt opened the public hearing at 4:26 p.m.

The City Manager presented the notice to the public and affidavit of publication for the public hearing.

The City Manager said reports were received from all City departments involved in this closing. He said the only concern was a twenty foot easement for servicing of water and sewer lines in the area.

Sandra Hyldburg, Attorney representing the petitioners to close the alleyway, presented affidavits of posting the street proposed to be closed and said that a twenty-foot easement had been given to the City at the rear of the property for servicing of the water and sewer lines.

Mayor McDevitt closed the public hearing at 4:28 p.m.

Upon motion of Councilman Myers and seconded by Councilwoman Frank, Resolution No. 83-222 was unanimously adopted.

Complete text of Resolution No.83-222 will be found in Resolution Book No. 14 at Page 227.

ORDINANCE NO. 1423 - BUDGET ORDINANCE AMENDMENT TO TRANSFER UNAPPROPRIATED BALANCE IN THE WATER-SEWER CAPITAL CONSTRUCTION FUND TO THE ASHEVILLE - BUNCOMBE WATER AUTHORITY

9. Consideration was given to a Budget Ordinance Amendment to transfer the unappropriated balance in the Water/Sewer Capital Construction Fund to the Asheville-Buncombe Water Authority.

The City Manager said members of Council had previously received copies of the Ordinance and it would not be read in its entirety.

Note: This budget amendment in the amount $70,304 is to transfer the unappropriated balance in the Water/Sewer Capital Construction Fund to the Asheville-Buncombe Water Authority for use in funding the Bee Tree treatment plant and Bee Tree/North Fork twenty-four inch water line.

Vice-Mayor Bratton moved for the adoption of Ordinance No. 1423. This motion was seconded by Councilman Myers.

On a roll call vote of 7-0, Ordinance No. 1423 was passed on first and final reading.

Complete text of Ordinance No. 1423 will be found in Ordinance Book No. 10 at Page 100.

ORDINANCE NO. 1424 - BUDGET ORDINANCE AMENDMENT TO CLOSE OUT THE WATER SYSTEM IMPROVEMENT FUND

10. Consideration was given to a budget ordinance amendment to close out the Water System Improvement Fund.

The City Manager said members of Council had previously received copies of the Ordinance and it would not be read in its entirety.

Note: This budget amendment in the amount $11,418 is to close out the Water System Improvement Funds and appropriate the unexpended balance to the Asheville-Buncombe Water Authority for use in funding the Bee Tree treatment plant and Bee Tree/North Fork twenty-four inch water line project.

Vice-Mayor Bratton moved for the adoption of Ordinance No. 1424. This motion was seconded by Councilman Bissette.

On a roll call vote of 7-0, Ordinance No. 1424 passed on the first and final reading.

Complete text of Ordinance No. 1424 will be found in Ordinance Book No.10 at Page 101.

ORDINANCE NO. 1425 - BUDGET ORDINANCE AMENDMENT TO TRANSFER REMAINING CAPITAL FUNDS IN THE WATER SYSTEM MAJOR CAPITAL IMPROVEMENTS FUND TO THE ASHEVILLE-BUNCOMBE WATER AUTHORITY

11. Consideration was given to a budget ordinance amendment to transfer remaining capital funds in the Water System Major Capital Improvements Fund to the Asheville/Buncombe Water Authority.

receipts had been received from all property owners.

Mayor McDevitt closed the public hearing at 4:36 p.m.

The City Manager read the resolution.

Upon motion of Councilwoman Price, seconded by Councilwoman Frank, Resolution No. 83-223 was unanimously adopted.

Councilwoman Price moved to amend Resolution No. 83-223 to name College Street from Pine Street to dead-end past the Allen Center to College Place.

This motion was seconded by Councilman Boland and carried unanimously.

Complete text of Resolution No. 83-223 will be found in Resolution Book No. 14 at Page 228.

ORDINANCE NO. 1422 - AN ORDINANCE AMENDING SECTION 28-81.5 (32) OF ARTICLE 4, SPEED REGULATIONS OF CHAPTER 28 OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE TO CHANGE THE NAME OF WOODFIN AVENUE TO WOODFIN PLACE

8. Consideration was given to an ordinance amending Section 28-81.5 (32) of Article 4, Speed Regulation, Chapter 28 of the Code of Ordinances of the City of Asheville, to change the name of Woodfin Avenue to Woodfin Place.

The City Manager said members of Council had received copies of the Ordinance and it would not be read in its entirety.

Mayor McDevitt said this Ordinance would comply with changes made in the previous Resolution.

Councilman Boland moved for the adoption of Ordinance No. 1422. This motion was seconded by Councilwoman Frank.

On a roll call of 7-0, Ordinance No. 1422 passed on the first reading.

Councilwoman Price moved to suspend the rules and proceed with the second reading of Ordinance 1422. This motion was seconded by Councilman Myers and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1422 passed on second reading.

Councilwoman Price moved to suspend the rules and proceed with the third reading of Ordinance No. 1422. This motion was seconded by Councilwoman Frank and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1422 passed on third and final reading.

Complete text of Ordinance No. 1422 will be found in Ordinance Book No. 10 at Page 99.

building will accommodate up to 12 physicians and 20 employees which would require 70 parking spaces.

Lot 197 is located on New Pine Street and is a sale to a legal partnership for the purpose of constructing a legal office building. The structure will contain 2,400 square feet with four offices and on-site parking for 12 cars.

Councilman Bissette moved to approve the sale of disposal parcels 123, 176, and 197 in the East Riverside Renewal Project and East End/Valley Street Project as tentatively accepted by the Housing Authority. This motion was seconded by Councilwoman Price and carried unanimously.

RESOLUTION 83-224 - RESOLUTION APPOINTING MEMBER TO THE ASHEVILLE-BUNCOMBE CRIME STOPPERS COMMITTEE (COUNCILWOMAN NORMA T. PRICE)

15. Consideration was given to a resolution appointing Councilwoman Norma T. Price as a member of the Asheville-Buncombe Crime Stoppers Committee.

The City Manager read the Resolution.

Upon motion of Vice-Mayor Bratton, seconded by Councilman Bissette, Resolution No. 83-224 was unanimously adopted.

Complete text of Resolution No. 83-224 will be found in Resolution Book No. 14 at Page 229.

LETTER OF RESIGNATION - CITY MANAGER, KEN MICHALOVE

Mayor McDevitt instructed that the following Letter of Resignation from Ken Michalove, City Manager, be included in the minutes:

January 3, 1984

Larry McDevitt, Mayor
City of Asheville
P. O. Box 7148
Asheville, N. C. 28807

Dear Larry:

It is with mixed emotions that I submit my resignation as City Manager in order to accept the position of Executive Vice-President of Mountain Health Services, Inc., a subsidiary of Saint Joseph's Hospital Holding Company.

As a native and third generation Ashevillian, I will miss being a part of the rebirth of Asheville's downtown and I will miss being a part of the staff that shoulders the day-to-day responsibility of providing services to the community. However, as fate would have it, my decision to resign comes at an ideal time for Asheville and me personally. For Asheville there is a fine City Council dedicated to direct the policies and future of our community in a progressive way; and, there is the finest and most dedicated group of employees of any city, anywhere. For me it is an opportunity to remain in Asheville and continue my career in public service in a new capacity.

The City Manager said members of Council had previously received copies of the Ordinance and it would not be read in its entirely.

Note: This budget amendment in the amount of $1,716,970 is to transfer remaining capital funds in the Water System Major Capital Improvements Fund to the Asheville-Buncombe Water Authority to be used in funding the Bee Tree treatment plant and Bee Tree/North Fork twenty-four inch water line project.

Councilwoman Frank moved for the adoption of Ordinance No. 1424. This motion was seconded by Councilman Boland.

On a roll call of 7-0, Ordinance No. 1425 passed on first and final reading.

Complete text of Ordinance No. 1425 will be found in Ordinance Book No. 10 at Page 102.

APPROVAL OF SIGN PERMIT - GORDON JEWELERS - 140 TUNNEL ROAD

12. Consideration was given to a motion approving a sign permit for Gordon Jewelers for placement of a wall sign to be located at 140 Tunnel Road.

Verl Emrick, Director of Planning, said Crawford Sign Company has applied for a sign permit to erect a wall sign and additional free-standing signage at 140 Tunnel Road for Gordon Jewelers. He said this permit requires the approval of City Council pursuant to the Zoning Ordinance in that the sign will be situated closer than 600' from a limited access highway.

Councilman Myers moved to approve a sign permit for Gordon Jewelers for placement of a wall sign to be located at 140 Tunnel Road. This motion was seconded by Councilwoman Frank and carried unanimously.

SALE OF DISPOSAL PARCELS - EAST RIVERSIDE RENEWAL PROJECT AND EAST END/VALLEY STREET PROJECT (PARCELS 123, 176 AND 197)

13. Consideration was given to a motion approving the sale of disposal property in the East Riverside Renewal Project and East End/Valley Project.

Mayor McDevitt highlighted the following recommendations from the Housing Authority: - The Housing Authority has tentatively accepted the following bids for disposal parcels in the East Riverside Renewal Project and East End/Valley Street Projects:

Parcel	Reuse	Price	Bid	Redeveloper
123	Commercial	$39,000	$39,000	Victoria Investment
176	Residential	1,800	1,800	Lena B. Nance
197	Commercial	7,000	7,000	Brock, Begley & Drye Enterprises

Lot 176 is located on Gaston Street and is a Dollar-A-Lot sale to an individual for the purpose of constructing a single-family residence.

Lot 123 is located on South French Broad and is a sale to a medical partnership for the purpose of constructing a medical office facility. The proposed structure will contain approximately 15,900 square feet on two levels. Parking for 92 cars will be provided on-site. The

Mayor McDevitt referred the claims to the Corporation Counsel for investigation and recommendation.

LAWSUITS - HOUSING AUTHORITY - CONDEMNATION OF PROPERTY

The City Manager said the City was served with summonses in connection with the following lawsuits, in which the City is a defendant:

Plaintiff/Petitioner	Nature of Suit
Asheville Housing Authority	Condemnation of Jane Reed Property (East End/Valley Street)
	Condemnation of Johnny F. Baxter Property (East End/Valley Street)
	Condemnation of Agusta E. Kearney Property (East End/Valley Street)
	Condemnation of Ernest Alexander Property (East End/Valley Street)
	Condemnation of Elmira Thomas Property (East End/Valley Street)
	Condemnation of W. F. Jordan Property (East End/Valley Street)
	Condemnation of Eleanor Jordan Property (East End/Valley Street
	Condemnation of Annie J. Robinson Property (East End/Valley Street)

Mayor McDevitt referred the lawsuits to the Office of Corporate Counsel for Action.

LETTER FROM ATTORNEY RONALD K. PAYNE - REZONING OF PROPERTY ON WHITE PINE DRIVE FOR DURWARD JOHNSON

The City Manager read the following letter:

January 5, 1984

Mr. Ken Michalove
City Manager
City Hall
Asheville, N. C. 28801

Dear Ken:

You will recall that Mr. Durward Johnson, on behalf of the Johnson heirs, filed a petition for rezoning for a parcel of real estate located on White Pine Drive. The petition was presented to City Council in February, 1983. Council failed to take any action on the petition, although Planning and Zoning had recommended that the

I am grateful to have been given the opportunity to serve the citizens of Asheville for almost seven years as City Manager and I am grateful for their tolerance of my shortcomings.

Very truly yours,

Ken Michalove

PRESENTATION OF RESOLUTIONS ADOPTED BY THE ASHEVILLE PLANNING AND ZONING COMMISSION CERTIFYING QUALIFICATIONS OF AREA 4, AREA 6, AND AREA 7, AS "NON-RESIDENTIAL REDEVELOPMENT AREAS

Verl Emrick, Director of Planning, presented Council with three resolutions adopted by the Planning and Zoning Commission certifying Area 4, vicinity of Haywood Street and Page Avenue; Area 6, vicinity of Pack Square, Biltmore Avenue and Eagle Street; and Area 7, vicinity of Eagle Street and South Charlotte Street, as "non-residential redevelopment areas". By the use of a map, Mr. Emrick described each location.

RESOLUTION NO. 83-225 - RESOLUTION DIRECTING THE ASHEVILLE HOUSING AUTHORITY TO PREPARE THE REDEVELOPMENT PLAN FOR THE HAYWOOD STREET PROJECT AREA - ZONE 4

Consideration was given to Resolution directing the Asheville Housing Authority to prepare the redevelopment plan for the Haywood Street Project area, zone 4.

The City Manager read the Resolution.

Upon motion of Councilwoman Frank, seconded by Councilwoman Price, Resolution No. 83-225 was unanimously adopted.

Complete text of Resolution No. 83-225 will be found in Resolution Book No. 14 at Page 230.

RESOLUTION NO. 83-226 - RESOLUTION DIRECTING THE ASHEVILLE HOUSING AUTHORITY TO PREPARE THE REDEVELOPMENT PLAN FOR THE PACK SQUARE PLAZA PROJECT AREA - ZONE 6

Consideration was given to a resolution directing the Asheville Housing Authority to prepare the redevelopment plan for the Pack Square Plaza Project Area - Zone 6.

The City Manager read the Resolution.

Upon motion of Vice-Mayor Bratton, seconded by Councilwoman Frank, Resolution No. 83-226 was unanimously adopted.

Complete text of Resolution No. 83-226 will be found in Resolution Book No. 14 at Page 231.

CLAIMS - ANITA REID (WATER) - TOM SCHLENK (SEWER) - ROBERT KAUFFMAN (WATER) - HARRIETT DALE (STREETS) -JAMES GREEN (WATER) - JAMES REDMOND (STREETS) -SKYLAND SANITARY PICKUP SERVICES, INC. (SANITATION)

The City Manager presented claims received from Anita Reid, Tom Schlenk, Robert Kauffman, Harriett Dale, James Green, James Redmond, and Skyland Sanitary Pick-up Services, Inc.

ADJOURNMENT TO MEET AGAIN THURSDAY, JANUARY 12, 1984

At 5:10 p.m., Councilwoman Price moved to adjourn to meet again at 8:00 a.m. on Thursday, January 12, 1984. This motion was seconded by Councilman Myers and carried unanimously.

Thursday - January 12, 1984
8:00 a.m.

Adjourned meeting:

Present: Mayor Larry McDevitt, Presiding, Vice-Mayor Wilhelmina Bratton; Councilwomen Mary Lloyd Frank and Norma T. Price; Councilmen Gordon Myers, Walt Boland, and Louis Bissette; Corporation Counsel William F. Slawter; City Manager K. M. Michalove, Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: None

The City Council reconvened the January 10, 1984 meeting at 8:15 a.m. on Thursday, January 12, 1984.

Upon motion, Council immediately went into Executive Session to discuss a personnel matter.

At 8:20 a.m., Council reconvened and upon motion of Councilwoman Price, seconded by Vice-Mayor Bratton the meeting adjourned.

Larry McDevitt
MAYOR

William F. Wolcott, Jr.
CITY CLERK

petition for rezoning be denied.

If this matter is remanded back to Planning and Zoning for further consideration, my client will present information which I believe will result in Planning and Zoning making a different recommendation to Council. My interpretation of the Ordinance regarding amendments to zoning ordinances is that a denial of rezoning cannot be reconsidered for a period of one year, unless City Council refers the proposed amendment back to the Planning and Zoning Commission for further review. The section which I refer to is Section 30-11-2 G.

On behalf of my client, I would request that this matter be placed on the agenda for the January 10th City Council meeting for Council to consider referring this matter back to Planning and Zoning for further review.

Your very truly,

Ronald K. Payne

RKP/c

cc: Verl Emrick
Bill Slawter
Bill Wolcott

Corporation Counsel Slawter said he had reviewed the request and would have no problem with Council remanding the rezoning request to the Planning and Zoning Commission.

Beth Arrowood, with Long, Parker, Payne and Matney, Attorneys, personally appeared requesting that Council remand the rezoning petition to Planning and Zoning Commission.

Councilman Boland moved to remand the rezoning issue of White Pine Drive to Planning and Zoning Commission. This motion was seconded by Councilman Myers and carried unanimously.

ANNOUNCEMENT OF COUNCIL MEETING - THURSDAY, JANUARY 12, 1984

Mayor McDevitt said this Council meeting would be adjourned to meet again on Thursday morning, January 12, 1984 at 8:00 a.m. He said this would be an executive session to discuss personnel.

ANNOUNCEMENT OF INTERIM CITY MANAGER - WILLIAM F. WOLCOTT, JR.

Mayor McDevitt said that in the event it became necessary to name an interim city manager after March 1, 1984, that Associate City Manager/City Clerk William F. Wolcott, Jr. would be the Interim City Manager.

RALPH BISHOP - COMMENTS RELATIVE TO RECEIVING PUBLIC RECORDS

Ralph Bishop again spoke to Council relative to his difficulty in receiving records relative to the Board of Trustees of the Asheville Policeman's Pension and Disability Fund relative to J. C. Hall.

Upon motion of Councilman Boland, seconded by Councilwoman Price, Resolution No. 84-1 was unanimously adopted.

Mayor McDevitt presented the resolution to Captain Merrell.

Complete text of Resolution No. 84-1 will be found in Resolution Book No. 14 at page 232.

RESOLUTION NO. 84-2 - RESOLUTION OF APPRECIATION TO CAPTAIN WILLIAM H. COGBURN

4. Consideration was given to a resolution of appreciation to Captain William H. Cogburn.

Mayor McDevitt read the resolution stating that Captain Cogburn has been an employee of the City of Asheville since 1950 and has requested retirement, effective January 1, 1984.

Upon motion of Councilwoman Frank, seconded by Councilwoman Price, Resolution No. 84-2 was unanimously adopted.

Mayor McDevitt presented the resolution to Captain Cogburn.

Complete text of Resolution No. 84-2 will be found in Resolution Book No. 14 at page 233.

RESOLUTION NO. 84-3 - RESOLUTION OF APPRECIATION TO FIRE DRIVER, SAMUEL M. WAITES

5. Consideration was given to a resolution of appreciation to Fire Driver, Samuel M. Waits.

Mayor McDevitt read the resolution stating that Mr. Waites has been an employee of the City of Asheville since 1955 and has requested retirement, effective January 1, 1984.

Upon motion of Councilman Myers, seconded by Vice-Mayor Bratton, Resolution No. 84-3 was unanimously adopted.

Complete text of Resolution No. 84-3 will be found in Resolution Book No. 14 at page 234.

RESOLUTION NO. 84-4 - RESOLUTION OF APPRECIATION TO CAPTAIN OLIVER J. RANKIN

6. Consideration was given to a resolution of appreciation to Captain Oliver J. Rankin.

Mayor McDevitt read the resolution stating that Oliver Rankin has been an employee of the City of Asheville since 1947 and has requested retirement, effective January 1, 1984.

Mayor McDevitt noted that Captain Rankin has a record of 37 years of service with perfect attendance.

Upon motion from Councilman Boland, seconded by Councilwoman Price, Resolution No. 84-4 was unanimously adopted.

Tuesday - January 17, 1984 - 4:00 p.m.

Regular Meeting

Present: Mayor Larry McDevitt, Presiding; Vice-Mayor Wilhelmina Bratton; Councilwomen Mary Lloyd Frank and Norma T. Price; Councilmen Gordon Myers, Walter R. Boland, and Louis Bissette; Corporation Counsel William F. Slawter; City Manager K. M. Michalove, Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: None

INVOCATION

The invocation was given by Mayor Larry McDevitt.

APPROVAL OF THE MINUTES

1. Approval of the minutes of the January 10, 1984 meeting.

Upon motion of Councilman Boland, seconded by Councilwoman Price, the minutes of the January 10, 1984 meeting were unanimously approved as submitted.

PRESENTATION OF "POSTER OF THE YEAR" AWARDS - MAYOR'S COMMITTEE ON EMPLOYMENT OF THE HANDICAPPED

2. Mayor McDevitt introduced Mr. Paul Godfrey, with the Mayor's Committee on Employment of the Handicapped, who said, each year the President's Committee on the Employment of the Handicapped sponsors a "National Poster of the Year" contest. He said the local Asheville area Mayor's Committee on Employment of the Handicapped decided to have a local contest as a pilot program. He said the Committee went into Reynolds High School and asked the students to enter a local "Poster of the Year" contest. He said the Committee also talked with the students about disabilities and handicapped persons. He said he feels this pilot program was a success. He then asked Mayor McDevitt to present the awards.

Mayor McDevitt presented Cindy Gutherie, the first place winner, with a certificate and a $100 check; Steve Byas, as second place winner, received a certificate and a $50 check; and Wayne Sales, as third place winner received a certificate and a $25 check. He said Cindy's poster would go on to the national competition level.

Linda Demos, with the Mayor's Committee on Employment of the Handicapped, said the sponsors for the program were Thom's Rehabilitation Hospital, Ace Appliance, and Three Mountaineers.

RESOLUTION NO. 84-1 - RESOLUTION OF APPRECIATION TO CAPTAIN RAYMOND MERRELL

3. Consideration was given to a resolution of appreciation to Captain Raymond Merrell.

Mayor McDevitt read the resolution stating that Captain Merrell has been an employee of the City of Asheville since 1948 and has requested retirement, effective January 1, 1984.

proposed Summey apartments and supported by the Kennilworth Residents' Association. He said the Commission felt that approval of the Summey Apartments should not be contingent upon this petition and voted to transmit the petition to City Council as a separate issue.

Mr. Emrick said he had been informed by the Corporate Counsel that the City Council does not have the authority to grant a parking variance, in approving a group developments plan. However, in the past, Council has granted variances pertaining to group development in order to preserve the integrity of the neighborhood. Mr. Emrick suggested that Council give a positive recommendation for the parking variance to the Board of Adjustments, which will meet on January 23, 1984 to discuss the variance.

Mayor McDevitt said his law firm represents Mr. Mike Summey and requested that he be excused from voting on this issue, as he felt this would be a conflict of interest.

Councilwoman Price moved to excuse Mayor McDevitt from voting on the site plan of the apartment complex to be located on Kenilworth Drive. This motion was seconded by Vice-Mayor Bratton and carried unanimously.

Mr. Al Tingle, property owner adjacent to Kenilworth Drive spoke relative to the approval of the site plan. He said the approval of the site plan for the Summey Apartments should be contingent upon Kenilworth Drive being dead-ended at its intersection with Pickwick Drive. He said the developer of the project is in agreement with this request. He said the present road conditions and the topography of the land is poor, and the project would create additional traffic in the area, causing increased problems.

Mr. Bill Moore, President of the Kenilworth Residents' Association, also spoke relative to the project. He requested that the approval of the project be contingent upon the dead-ending of Kenilworth Drive.

Mr. Marc Rudow, of 47 Kenilworth Drive, spoke relative to the project stating that, for the record, it was indicated in the Planning and Zoning Commission meeting that the developer would put no signs on the street, use existing trees as much as possible, provide an attractive finish on the building, no parking would be provided on the streets, a green barrier would be used, and a traffic control plan would be in effect.

Councilman Bissette arrived at the Council meeting at 5:10 p.m.

Mr. Mike Summey, developer of the project, spoke in support of approval of the project. He said he was in agreement with the residents in the area relative to dead-ending Kenilworth Drive. However, he did not feel the project should be contingent upon the closing. He said he would be willing to provide a right-of-way easement for a cul-de-sac on Kenilworth Drive.

A discussion was held relative to alternate methods that could be used for dead-ending Kenilworth Drive.

Mr. Pete Winslow, property owner in the area, commended Mr. Summey for meeting with all the residents in the area to work out any problems dealing with the proposed projects.

Mayor McDevitt presented the resolution to Captain Rankin.

Complete text of Resolution No. 84-4 will be found in Resolution Book No. 14 at page 235.

PUBLIC HEARING - UDAG (URBAN DEVELOPMENT ACTION GRANT) APPLICATION

7. A public hearing was held relative to UDAG (Urban Development Action Grant) application.

Mayor McDevitt opened the public hearing at 4:25 p.m.

The City Manager presented the notice to the public and affidavit of publication setting the time and date for the public hearing.

Verl Emrick, Director of Planning, said due to interrupted airplane flights, Mr. Ralph Basile, Consultant for the Downtown Project, is late arriving. He said Mr. Basile was to present information relative to the UDAG grant to members of Council. He suggested that Council continue the public hearing until January 24, 1984 without further advertisement.

Councilman Myers moved to continue the public hearing relative to the UDAG application until January 24, 1984 without further advertisement. This motion was seconded by Councilwoman Frank and carried unanimously.

Councilman Boland requested the Mr. Basile be in attendance at the January 24, 1984 meeting to provide the information to members of Council.

PUBLIC HEARING - SITE PLAN - APARTMENT COMPLEX - KENILWORTH DRIVE

8. A public hearing was held relative to the site plan of a proposed 20-unit apartment complex to be located on Kenilworth Drive.

Mayor McDevitt opened the public hearing at 4:30 p.m.

Verl Emrick, Director of Planning, said the Asheville Planning and Zoning Commission, at a meeting held December 14, 1983, reviewed the site plan of a proposed 20-unit apartment complex to be located on Kennilworth Drive. He said the plan was prepared by Larry Traber, Architect for Mike Summey, Developer, and submitted in accordance with the group development section of the Asheville Zoning Ordinance. He said after review and discussion, the Commission voted to recommend approval of the plan to the City Council, subject to the following: 1) that City Council grant a parking variance from 2 spaces per unit to 1.55 spaces per unit; 2) that the site plan show that additional parking can be provided if necessary; and 3) compliance with the Erosion Control Ordinance.

Mr. Emrick said that the Erosion Control plan for the project has been submitted for approval. He said Mr. Summey met with all the property owners and residents in the area to work out any problems dealing with the proposed project. He said the residents recommended that Kenilworth Drive be dead-ended at its intersection with Pickwick Drive. He said the Asheville Zoning and Planning Commission had received the petition that Kenilworth Drive be dead-ended at its intersection with Pickwick Drive. He said the petition was from property owners adjacent to the

Mayor McDevitt opened the public hearing at 5:24 p.m.

The City Manager presented the notice to the public and affidavit of publication setting the time and date for the public hearing.

Mr. Carl Owenby, with the Asheville Transit Authority, said this grant will aid in the financial assistance for transit operations. He said the expenditures for this project will include a 50-50 match between local and federal monies. Local, $443,971 -- federal $443,971 -- total, $887,942. He said the funds for the local share have been placed in the current budget.

Mayor McDevitt closed the public hearing at 5:25 p.m.

The City Manager said members of Council had received copies of the resolution and it would not be read in its entiretv.

Upon motion of Councilman Bissette, seconded by Councilwoman Frank, Resolution No. 84-6 was unanimously adopted.

Complete text of Resolution No. 84-6 will be found in Resolution Book No. 14 at page 239.

RESOLUTION NO. 84-7 - RESOLUTION APPOINTING MEMBERS TO THE ASHEVILLE-BUNCOMBE CRIME STOPPERS COMMITTEE (MR. LAMONT BYRD AND MR. RONALD EDWARDS)

11. Consideration was given to a resolution appointing Mr. Lamont Byrd and Mr. Ronald Edwards as members of the Asheville/Buncombe Crime Stoppers Committee.

The City Manager said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Boland, seconded by Councilwoman Frank, Resolution No. 84-7 was unanimously adopted.

Complete text of Resolution No. 83-7 will be found in Resolution Book No. 14 at page 240.

APPROVAL OF THE CONSENT AGENDA

12. Consideration was given to a motion approving the consent agenda.

Mayor McDevitt said the following items are of a routine nature and they have been previously reviewed by the members of the City Council. Therefore, by unanimous vote to approve these items, the City Council may, pursuant to the procedures established in Ordinance No. 1008, adopt all the items with one motion without the full reading and/or separate motion adopting each individual item. Upon the request of a citizen, a member of the City Council, and/or a member of the City staff, any single item scheduled for approval on the consent agenda may be considered separate.

A. Scheduling public hearing relative to rezoning property located on Sweeten Creek Road for February 14, 1984.

Corporation Counsel Slawter suggested that if Council approved the project contingent upon the dead-ending of Kenilworth Drive, a signed agreement be obtained from the developer stating that he would provide the necessary property for installing a cul-de-sac.

Councilman Boland requested that the staff look into the possibility of providing a cul-de-sac at the dead-end of Kenilworth Drive. He requested that the staff look into the safety factors, whether or not dead ending would cause additional traffic, and the cost involved in installing a cul-de-sac. He also requested that in reviewing the dead-ending of Kenilworth Drive, that no property owner be encroached upon.

Mayor McDevitt closed the public hearing at 5:16 p.m.

Councilwoman Price moved to approve the site plan of the apartment complex to be located on Kenilworth Drive contingent upon the Planning and Zoning Commission's recommendation, the execution of a right-of-way agreement, signed by the developer, for providing a cul-de-sac at the dead-end of Kenilworth Drive, and with the understanding that City Council would give serious consideration to closing or dead-ending Kenilworth Drive at the intersection of Pickwick Drive. This motion was seconded by Councilman Boland and carried unanimously.

At the request of Mr. Emrick, Councilman Boland moved that the City Council recommend approval of the parking variance from 2 spaces per unit to 1.55 spaces per unit to the Board of Adjustments. This motion was seconded by Councilwoman Frank and carried unanimously.

PETITION - KENILWORTH DRIVE DEAD-ENDING - INTERSECTION WITH PICKWICK DRIVE

RESOLUTION NO. 84-5 - RESOLUTION OF INTENT TO CLOSE KENILWORTH DRIVE AT ITS INTERSECTION WITH PICKWICK DRIVE AND CALLING A PUBLIC HEARING ON THE QUESTION FOR FEBRUARY 21, 1984

9. Consideration was given to a resolution of intent to close Kenilworth Drive at its intersection with Pickwick Drive and calling a public hearing on the question for February 21, 1984.

The City Manager said members of Council had received copies of the resolution and it would not be read in its entirety.

Upon motion of Councilwoman Price, seconded by Vice-Mayor Bratton, Resolution No. 84-5 was unanimously adopted.

Complete text of Resolution No. 84-5 will be found in Resolution Book No. 14 at page 236-237-238.

PUBLIC HEARING - UMTA OPERATING ASSISTANCE FUNDING

RESOLUTION NO. 84-6 - RESOLUTION AUTHORIZING THE FILING OF AN APPLICATION WITH THE DEPARTMENT OF TRANSPORTATION UNITED STATES OF AMERICA, FOR A GRANT UNDER THE URBAN MASS TRANSPORTATION ACT OF 1964, AS AMENDED

10. A public hearing was held relative to an application for UMTA Operating Assistance funding.

The City Manager read the resolution, stating that Zuchelli, Hunter and Associates, Inc. has received information regarding the reuse of the S & W Cafeteria and has requested that the City authorize them to review information received by it regarding said S & W Cafeteria project. He said this resolution will authorize such action.

Upon motion of Vice-Mayor Bratton, seconded by Councilwoman Price, Resolution No. 84-8 was unanimously adopted.

Complete text of Resolution No. 84-8 will be found in Resolution Book No. 14 at page 241.

RESOLUTION NO. 84-9 - RESOLUTION APPROVING SOUTH PACK SQUARE REVOLVING LOAN FUND

Consideration was given to a resolution approving South Pack Square Revolving Loan Fund.

The City Manager said members of Council had received copies of the resolution and it would not be read in its entirety.

Upon motion of Vice-Mayor Bratton, seconded by Councilman Boland, Resolution No. 84-9 was unanimously adopted.

Complete text of Resolution No. 84-9 will be found in Resolution Book No. 14 at page 242.

REQUEST OF PLANNING DIRECTOR - AUTHORITY TO REVIEW PROCESS FOR APPROVAL OF GROUP DEVELOPMENTS

At the request of the Planning Director, Councilwoman Price moved to authorize Mr. Emrick to meet with the Corporation Counsel and the City Manager to review the process for approving group developments; in order that Council may have authority to grant variances without going before the Board of Adjustments. This motion was seconded by Councilman Boland and carried unanimously.

ADJOURNMENT

Upon motion, the meeting adjourned at 5:45 p.m.

Lamar McDevitt
MAYOR

William F. Willett
CITY CLERK

HIGHLIGHTS: The Asheville Planning and Zoning Commission, at a meeting held January 11, 1984, considered the request of Mr. Peter Hall, owner, PECO, Inc. and Engineering Products, Inc. that his property on Sweeten Creek Road be rezoned from CS, Commercial Service District, to HI, Heavy Industrial District. After review and discussion, the Commission voted to recommend to City Council that Ward 7, Sheet 55, Lots 43, 44, 45, portion of 47, 54, 55, and 56, be rezoned from R-3 and CS, Commerical Service District to LI, Light Industrial District.

B. Scheduling public hearing relative to rezoning property located on Johnston School Road for February 14, 1984.

HIGHLIGHTS: The Asheville Planning and Zoning Commission, at a meeting held January 11, 1984, considered the petition of Mr. Albert Rodgers that Ward 6, Sheet 19, Lot 5, be rezoned from R-3, Residential District to LI, Light Industrial District. The property is located on Johnston School Road. After review and discussion, the Commission voted to recommend to City Council that Ward 6, Sheet 19, Lot 5, be rezoned from R-3, Residential District to LI, Light Industrial District.

C. Scheduling public hearing relative to amending the Zoning Ordinance - R-1, Single Family Residential District for February 14, 1984.

HIGHLIGHTS: The Asheville Planning and Zoning Commission, at a meeting held January 11, 1984, voted to recommend to City Council that Asheville Zoning Ordinance No. 322 be amended to permit existing apartment units in the R-1, Residential District to be converted to condominiums as a Conditional Use.

Upon motion of Councilwoman Price, seconded by Councilman Boland, the consent agenda was unanimously approved.

SCHEDULING PUBLIC HEARING - ZONING PROPERTY IN NEWLY ANNEXED SOUTH BUNCOMBE AREA

Councilwoman Price moved to schedule a public hearing relative to the zoning of newly annexed property in the South Buncombe area for January 31, 1984. This motion was seconded by Councilman Bissette and carried unanimously.

CLAIMS - LORETTA THURMOND (SANITATION)

The City Manager presented a claim received from Loretta Thurmond.

Mayor McDevitt referred the claim to the Corporation Counsel for investigation and recommendation.

RESOLUTION NO. 84-8 - RESOLUTION TO AUTHORIZE ZUCHELLI, HUNTER AND ASSOCIATES, INC., TO PROCEED PURSUANT TO ARTICLE VIII OF THEIR CONTRACT WITH THE CITY WITH REGARDS TO ADDITIONAL PROJECTS IN THE DOWNTOWN REDEVELOPMENT PROGRAM

Consideration was given to a resolution to authorize Zuchelli, Hunter and Associates, Inc., to proceed pursuant to Article VIII of their contract with the City with regards to additional projects in the Downtown Redevelopment Program.

Mayor McDevitt read the resolution, stating that Joseph Byrd had been an employee of the City of Asheville for 12 years and retired from service December 30, 1983.

Upon motion of Councilman Bissette, seconded by Councilwoman Price, Resolution No. 84-10 was unanimously adopted.

Complete text of Resolution No. 84-10 will be found in Resolution Book No. 14 at page 243.

Mayor McDevitt presented the resolution to Mr. Byrd.

CONTINUATION OF PUBLIC HEARING - UDAG (URBAN DEVELOPMENT ACTION GRANT) APPLICATION

4. A public hearing relative to a UDAG (Urban Development Action Grant) application was continued.

Mayor McDevitt stated that this public hearing was continued from the January 17, 1984 meeting.

Verl Emrick, Director of Planning, said federal guidelines require public hearings to be held relative to UDAG applications. He said this application is to apply for funding for the "Wall Street Project" and the "South Pack Square Project." He said the City is now ready to submit the application to the Office of Housing and Urban Development for financing of these two projects. He said the application is applying for 10.5 million with the local shares being $3,145.00 from the City, and $1,500,000 from the County, for a total project of 50.4 million with private financing.

He said this application puts into motion the financing package for the downtown project. He said the application meets all the criteria for submission of a UDAG grant.

Mr. Emrick said the grant must be submitted by January 31, 1984 and several items needed to be completed for the application and some documents could be prepared after the application is submitted but would be sent as a supplement to HUD. He said, generally the things that need to be done are: 1) update of Schneider Nine figures; 2) citizen participation process documented; 3) meetings with the State Archives and History for assessment of the impact of these projects relative to archives and history; 4) letters from NCNB/Southeastern for federal assistance; 5) commitments for private funding from lending institution in the Asheville area; and 6) County funding commitments.

Upon injuiry of Councilman Bissette, Mr. Emrick said the agreements with the developers would become a part of the application.

A discussion was held relative to the completion of the agreements with the developers and financing by local lending institutions.

Mayor McDevitt requested that any documents sent to HUD to supplement the application be submitted to Councilmembers.

Councilman Boland requested that Council have an update on the projects from the developers.

Tuesday - January 24, 1984 - 4:00 p.m.

Regular Meeting

Present: Mayor Larry McDevitt, Presiding; Vice-Mayor Wilhelmina Bratton; Councilwomen Mary Lloyd Frank and Norma T. Price; Walter R. Boland, and Louis Bissette; Corporation Counsel William F. Slawter; City Manager K. M. Michalove, Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Councilman Gordon Myers

INVOCATION

Vice Mayor Wilhelmina Bratton introduced Reverend Steven Carreker, Minister of the Calvary Baptist Church, who gave the invocation.

APPROVAL OF THE MINUTES

1. Approval of the minutes of the January 17, 1984 meeting.

Upon motion of Councilman Boland, seconded by Councilwoman Price, the minutes of the January 17, 1984 meeting were unanimously approved as submitted.

PRESENTATION OF MERITORIOUS SERVICE AWARD - SHIRLEY THORPE - RECREATION CENTER DIRECTOR

2. Ray Kisiah, Director of Parks and Recreation, introducted Mr. Clinton Foust with the North Carolina Recreation and Parks Society, who presented Shirley Thorpe the Meritorious Service Award from the North Carolina Recreation and Parks Society. He said Shirley Thorpe had been an employee of the City of Asheville Parks and Recreation Department for 16 years, also serving the North Carolina Recreation and Parks Society in various capacities.

Mayor McDevitt congratualed Shirley Thorpe on receiving the award.

INTRODUCTION OF OPPIE JORDAN WITH THE NORTH CAROLINA DEPARTMENT OF COMMERCE

Verl Emrick, Director of Planning, introducted Oppie Jordan with the North Carolina Department of Commerce, who said the North Carolina Department of Commerce is sponsoring a "business development" pilot program in three cities in North Carolina. She said the purpose of the program is to recruit small businesses in these three cities, particularly in the downtown area. She said the cities include Asheville, Tarboro, and Salisbury. She said she would be directing the pilot program and the cities would be putting together a "marketing team" with a full-time coordinator to work with her. She said this would be a recuitment of a broad-range of small businesses with focal points in the downtown area; however, businesses could go on out into the perimeter of the downtown area. She said the would be a community-wide program.

RESOLUTION NO. 84-10 - RESOLUTION OF APPRECIATION TO JOSEPH BYRD, RETIRING EMPLOYEE OF THE CITY OF ASHEVILLE

3. Consideration was given to a resolution of appreciation to Joseph Byrd, retiring employee of the City of Asheville.

Committee by which they are to study requested rate increases. He said this has been requested by the Committee.

Councilwoman Price said the Committee's recommendation should be adopted by Council but should not be a part of the franchise ordinance in granting the increase.

Ralph Bishop said he did not think Council should regulate the cable TV rates.

Councilman Boland moved for the adoption of Ordinance No. 1426. This motion was seconded by Councilman Bissette.

On a roll call vote of 5-1, Ordinance No. 1426 passed on first reading, with Vice-Mayor Bratton voting "no".

Councilman Boland requested that, in the near future, Council consider requiring financial audits to be submitted, a consumer survey relative to the adequacy of service from the cable TV companies, and that American Cable TV Investors make progress in providing cable TV services to the Gashes Creek area and other areas in the city.

Councilwoman Frank thanked Mr. Winslow and all the Committee members for their time and efforts in this matter.

Corporation Counsel Slawter requested that the ordinance be amended, including the date of February 22, 1984 as the effective date.

Councilman Boland and Councilman Bissette accepted an amendment to the ordinance, making the effective date February 22, 1984.

Mayor McDevitt requested that Council study the franchise ordinance, in particular Article XI dealing with the method of rate increase, i.e. Consumer Price Index method. He said there was very little flexibility as the ordinance now reads.

ORDINANCE NO. 1427 - BUDGET ORDINANCE AMENDMENT TO PROVIDE AN APPROPRIATION TO COVER THE CITY'S FISCAL 1983 COST ALLOCATION STUDY

6. Consideration was given to a budget ordinance amendment to provide an appropriation to cover the City's Fiscal 1983 Cost Allocation Study.

The City Manager said members of Council were furnished copies of the ordinance and it would not be read in its entirety. He said this budget amendment will provide an appropriation in the amount of $6,500 to cover the preparation of the City's Fiscal 1983 Cost Allocation Study. He said this plan will result in the recovery to the General Fund of a total of more than $500.000 in services provided to enterprise and federal fund activities.

Upon inquiry of Mayor McDevitt, the City Manager said in the event that sufficient recovery is not made to cover the cost of the study contingency funds are available at the present time.

Councilwoman Price moved for the adoption of Ordinance No. 1427. This motion was seconded by Councilwoman Frank.

Mr. Emrick stated that the developer is having problems with air flights and would be here shortly to give members of Council an update on the project. He suggested that Council continue the public hearing until Thursday afternoon.

Councilwoman Price requested that a table of contents, or major points highlighting the application be given to Council.

Ralph Bishop opposed the downtown development.

Councilwoman Price moved to continue the public hearing until Thursday, January 26, 1984 at 4:00 p.m. without further advertisement. This motion was seconded by Councilman Boland and carried unanimously.

Councilman Boland requested that the developer be present at the public hearing on Thursday and that every effort be made to keep the public informed on Council's action relative to the projects and the application.

RATE INCREASE FOR ASHEVILLE CABLEVISION

ORDINANCE NO. 1426 - AN ORDINANCE AMENDING ORDINANCE GRANTING FRANCHISE TO THE THOMS BROADCASTING COMPANY, INC. AS SUCH HAS BEEN ASSIGNED TO AMERICAN CABLE TV INVESTORS, A LIMITED PARTNERSHIP

5. Consideration was given to an ordinance amending ordinance granting franchize to the Thoms Broadcasting Company, Inc. as such has been assigned to American Cable TV Investors, a limited partnership, increasing the cablevision rates.

Mr. John Jerose with the American Cable TV, Investors, spoke in support of the ordinance increasing the rate stating that this action is a result of the Asheville/Buncombe Cable TV Study Committee. He said the ordinance outlines a 75 cent increase in monthly basic charges, an increase in installation charges, and an increase in the cost of additional outlets. He asked that Council look favorably upon the rate increase request, stating that they had not had an increase in over four years.

Mr. Don Williams, Accountant for the cable TV company spoke in support of the rate increase.

Mr. John Mason, Attorney representing American Cable TV Investors, also spoke in support of the rate increase. He said his understanding of the francise ordinance is that it is mandatory that City Council grant an increase as much as the increase in the Consumer Price Index. He said if Council increased the rates as much as the Consumer Price Index, the rate increase would be $2.62. He said that he felt the 75 cent rate increase requested is reasonable and standard.

A discussion was held relative to the method outlined in the franchise ordinance granting an increase, i.e. Consumer Price Index method.

Upon inquiry of Mayor McDevitt Mr. Mason said the American Cable TV company is withdrawing its petition for a one dollar rate incrase and reducing that to a 75 cent rate increase.

Peter Winslow, Chairman of the Asheville/Buncombe Cable TV Study Committee, requested that Council also request that the cable TV companies submit an annual audit financial statement prior to March 31 of each year attaching all capital expenditures to that statement. He said ground rules should be established for the

Mayor McDevitt said members of Council were furnished copies of the resolution and it would not be read in its entirety. He said the grant agreement in the amount of $110,767 is for the construction of a snow removal equipment building at the Asheville Airport. He said the FAA has approved the grant application and the grant agreements must be executed by the City.

Upon motion of Councilwoman Price, seconded by Councilwoman Frank, Resolution No. 84-13 was unanimously adopted.

Complete text of Resolution No. 84-13 will be found in Resolution Book No. 14 at page 246.

RESOLUTION NO. 84-14 - RESOLUTION AUTHORIZING THE RETURN OF THE PROPERTY UPON WHICH THE NEWTON SCHOOL BUILDING IS LOCATED TO THE TRUSTEES OF NEWTON ACADEMY

10. Consideration was given to a resolution authorizing the return of the property upon which the Newton School Building is located to the trustees of Newton Academy.

Mayor McDevitt said members of Council were furnished copies of the resolution and it would not be read in its entirety. He said this resolution would relinquish all rights and claims related to the property pursuant to a lease so that the property might be returned to the trustees of Newton Academy.

Upon motion of Councilwoman Price, seconded by Councilman Boland, Resolution No. 84-14 was unanimously adopted.

Complete text of Resolution No. 84-14 will be found in Resolution Book No. 14 at page 247.

CLAIMS - CINDY HUBER (WATER & SEWER)

The City Manager presented a claim received from Cindy Huber.

Mayor McDevitt referred the claim to the Corporation Counsel for investigation and recommendation.

RESOLUTION NO. 84-15 - RESOLUTION APPOINTING MEMBER TO THE BOARD OF DIRECTORS OF THE ASHEVILLE-BUNCOMBE COMMUNITY RELATIONS COUNCIL (BETTY JOE SULLIVAN)

Consideration was given to a resolution appointing Betty Joe Sullivan as a member of the Board of Directors of the Asheville-Buncombe Community Relations Council.

Upon motion of Vice-Mayor Bratton, seconded by Councilman Boland, Resolution No. 84-15 was unanimously adopted.

Complete text of Resolution No. 84-15 will be found in Resolution Book No. 14 at page 248.

On a roll call vote of 6-0, Ordinance No. 1427 passed on first and final reading.

Complete text of Ordinance No. 1427 will be found in Ordinance Book No. 10 at page 105.

RESOLUTION NO. 84-11 - RESOLUTION AUTHORIZING THE MAYOR TO SIGN AN AGREEMENT FOR DEVELOPMENT OF AN FY-83 COST ALLOCATION PLAN

7. Consideration was given to a resolution authorizing the Mayor to sign an agreement for development of an FY-83 Cost Allocation Plan.

The City Manager said members of Council were furnished copies of the resolution and it would not be read in its entirety.

The City Mangaer said the City has received a proposal from David M. Griffith and Associates, LTD., to prepare a plan which allocated FY-83 indirect costs. He said the proposal calls for the development of a A-87 plan to be used in the recovery of costs from federal and state funded programs and a full cost plan to be used in the recovery from enterprise and other non-grant funded sources.

Mayor McDevitt requested several changes be made in the agreement.

Upon motion of Councilman Boland, seconded by Councilwoman Price, Resolution No. 84-11 was unanimously adopted.

Complete text of Resolution No. 84-11 will be found in Resolution Book No. 14 at page 244.

RESOLUTION NO. 84-12 - RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF ASHEVILLE TO EXECUTE EASEMENT IN FAVOR OF THE CAROLINA POWER AND LIGHT COMPANY

8. Consideration was given to a resolution authorizing the Mayor of the City of Asheville to execute easement in favor of the Carolina Power and Light Company.

The City Manager said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Mayor McDevitt said that Carolina Power and Light Company has requested the City of Asheville to execute a right-of-way easement on property belonging to the City of Asheville, located at the Asheville Regional Airport for the purpose of updating an existing electric power line for the new Holiday Inn to be located at the airport.

Upon motion of Councilwoman Frank, seconded by Councilman Bissette, Resolution No. 84-12 was unanimously adopted.

Complete text of Resolution No. 84-12 will be found in Resolution Book No. 14 at page 245.

RESOLUTION NO. 84-13 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE ON BEHALF OF THE CITY OF ASHEVILLE A FEDERAL AVIATION GRANT AGREEMENT, PROJECT NO. 3-37-0005-02

9. Consideration was given to a resolution authorizing the Mayor to execute on behalf of the City of Asheville a federal aviation grant agreement, Project No. 3-37-0005-02.

RESOLUTION NO. 84-18 - RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN A CLINCHER AGREEMENT BY AND BETWEEN THE CITY OF ASHEVILLE AND ITS EMPLOYEE JACK EDWARD PADGETT

Consideration was given to a resolution authorizing the City Manager to sign a clincher agreement by and between the City of Asheville and its employee Jack Edward Padgent.

Upon motion of Vice-Mayor Bratton, seconded by Councilwoman Price, Resolution No. 84-18 was unanimously adopted.

Complete text of Resolution No. 84-18 will be found in Resolution Book No. 14 at page 251.

ADJOURN TO MEET AGAIN THURSDAY JANUARY 26, 1984 AT 4:00 P.M.

Councilwoman Frank moved to adjourn the meeting to meet again on Thursday, January 26, 1984 at 4:00 p.m. This motion was seconded by Councilwoman Price and carried unanimously.

Continued Meeting-January 26, 1984-4:00 p.m.

Present: Mayor Larry McDevitt, Presiding; Vice-Mayor Wilhelmina Bratton, Councilman Gordon Myers and Norma T. Price; Walter R. Boland, and Louis Bissette; Corporation Counsel William F. Slawter; City Manager K. M. Michalove, Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Councilwoman Mary Lloyd Frank

CONTINUATION OF PUBLIC HEARING - UDAG (URBAN DEVELOPMENT ACTION GRANT) APPLICATION

RSOLUTION No. 84-19 - RESOLUTION AUTHORIZING SUBMISSION OF AN APPLICATION TO THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT THROUGH THE URBAN DEVELOPMENT ACTION GRANT PROGRAM

1. A public hearing relative to the submission of an UDAG (Urban Development Action Grant) application was continued.

Mayor McDevitt said at a meeting this morning the Buncombe County Commissioners agreed to participate in the downtown project, providing $1.5 million over a several year period. He said he was also contacted by a representative of the banking institutions, involved with the developers of the downtown project, stating that they are still in the negotiation process. He said they could not give any definite word on financing at this time. He said the financing package would probably not be ready until next week. However, the City needs to file the application with HUD and UDAG funding for the projects. He said the agreements with the developers and the financing packages could be completed at a later date.

Mayor McDevitt said the banking community has been working very diligently with the developers to see what could be done to participate in the downtown project. He said he appreciated the work, spirit, and efforts shown toward the project.

Councilman Boland said, in general, he is excited about the project. He said he felt the downtown projects would maintain the historic character of the area, provide jobs, bring back downtown street life, provide an arts center, museum

RESOLUTION NO. 84-16 - RESOLUTION APPOINTING MEMBER TO THE METROPOLITAN SEWERAGE DISTRICT BOARD (FRANK SMITH)

Consideration was given to a resolution reappointing Mr. Frank Smith as a member of the Metropolitan Sewerage District Board.

Upon motion of Councilwoman Frank, seconded by Councilwoman Price, Resolution No. 84-16 was unanimously adopted.

Complete text of Resolution No. 84-16 will be found in Resolution Book No. 14 at page 249.

RESOLUTION NO. 84-17 - RESOLUTION APPOINTING MEMBERS TO THE BOARD OF TRUSTEES OF THE FIREMAN'S RELIEF FUND (T. CECIL TALLENT - WEBB E. ELLIS)

Consideration was given to a resolution reappointing Mr. T. Cecil Tallent and Mr. Webb E. Ellis as members of the Board of Trustees of the Fireman's Relief Fund.

Upon motion of Councilman Bissette, seconded by Councilwoman Price, Resolution No. 84-17 was unanimously adopted.

Complete text of Resolution No. 84-17 will be found in Resolution Book No. 14 at page 250.

RALPH BISHOP - OBTAINING CITY RECORDS

Mr. Ralph Bishop again appeared before Council relative to his difficulty in receiving Police Pension Board records.

JANA WALTRIP - COMMENTS RELATIVE TO ABC BOARD

Jana Waltrip appeared before Council with several other former employees of the ABC Board addressing Council relative to being terminated from the ABC Board system. She outlined the details of her termination stating that she had filed a suit with EEOC for sexual harassment and discrimination.

Mayor McDevitt informed Jana Waltrip that City Council members have no jurisdiction with the ABC Board except to appoint members to said board. He said that Council would not have any jurisdiction relative to ABC employees.

Vice-Mayor Bratton said Council should appoint responsible people to the ABC Board and should have a say-so in their policies.

RECESS TO EXECUTIVE SESSION

Councilwoman Frank moved that Council recess to Executive Session to discuss personnel matters. This motion was seconded by Councilwoman Price and carried unanimously.

and specialty shops. He said the project will also expand the city's tax base and help to create minority enterprises. He said this could be a progressive movement toward making Asheville a regional center.

Councilwoman Price agreed with Councilman Boland's comments.

Vice-Mayor Bratton said she was also excited about the projects and said the South Pack Square Project is badly needed in order to bring minority businesses to the area. She said if any problems are encountered with this project she would like to be informed.

Councilman Bissette said he felt this was a very important step for Asheville and he has been impressed with the work and cooperation given to the projects by everyone.

Mayor McDevitt said the submission of the application is only the first step in developing downtown. He said many, many more steps will have to be taken such as agreements, financing, written details of the project, final plans, and approval of grants.

Ralph Bishop spoke in opposition to the projects.

Upon inquiry of Wandy Henry-Coleman, Mayor McDevitt responding to questions from her, said that public participation would continue in all phases of the projects.

Mayor McDevitt closed the public hearing at 4:43 p.m.

Mayor McDevitt said members of Council were previously furnished copies of the resolution and it would not be read in its entirely.

Upon motion of Vice-Mayor Bratton, seconded by Councilman Boland, Resolution No. 84-19 was unanimously adopted.

Complete text of Resolution No. 84-19 will be found in Resolution Book No. 14 at page 252.

Former Mayor Eugene C. Ochsenreiter, speaking on behalf of the Asheville Area Chamber of Commerce and a private citizen, said he appreciated Council's efforts on the projects and ask them to keep moving forward.

Mayor McDevitt, Councilwoman Price, and Councilman Boland thanked Mr. Ochsenreiter for his time and effort on the projects as well as all the interest he has in the City of Asheville.

ADJOURNED

Mayor McDevitt adjourned the meeting at 4:55 p.m.

Larry McDevitt
MAYOR

William F. Holcombe
CITY CLERK

PUBLIC HEARING - ZONING PROPERTY IN NEWLY ANNEXED AREA IN SOUTH BUNCOMBE

ORDINANCE NO.1428 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED

3. A public hearing was held relative to zoning property in the newly annexed area of South Buncombe.

Mayor McDevitt opened the public hearing at 4:15 p.m.

The City Manager presented the notice to the public and affidavit of publication setting the time and date for the public hearing.

Verl Emrick, Director of Planning, said this action was zoned property in the newly annexed area of South Buncombe to R-2 Low Density Residential District, CH-Commercial Highway District, and HI-Heavy Industrial District. He said this action was required as a part of the overall annexation plan. He said the zoning is compatible with present County zoning in Limestone Township. He said nothing will be made nonconforming by this zoning.

Mayor McDevitt closed the public hearing at 4:20 p.m.

The City Manager said members of Council were furnished copies of the ordinance and it would not be read in its entirety.

Councilman Bissette moved for the adoption of Ordinance No. 1428. This motion was seconded by Councilwoman Price.

On a roll call of 7-0 Ordinance No. 1428 passed on first reading.

ORDINANCE NO. 1426 - AN ORDINANCE AMENDING AN ORDINANCE GRANTING FRANCHISE TO THOMS BROADCASTING COMPANY, INC. AS SUCH AS BEEN ASSIGNED TO AMERICAN CABLE TV INVESTORS, A LIMITED PARTNERSHIP

4. Consideration was given to the second reading of Ordinance No. 1426, an ordinance amending ordinance granting franchise to the Thoms Broadcasting Company, Inc. as such as been assigned to American Cable TV Investors, a Limited Partnership.

Mayor McDevitt said this ordinance was read on first reading on January 24, 1984.

On a roll call vote of 7-0, Ordinance No. 1426 passed on second reading.

Councilman Boland said he had asked the staff to prepare a resolution for Council's consideration outlining the Asheville-Buncombe Cable TV Study Committee's recommendations relative to cablevision in the City of Asheville.

BIDS-TWO-YEAR UNIFORM RENTAL AND SERVICE CONTRACT

5. Consideration was given to bids received January 12, 1984 for a two-year uniform rental service contract.

Tuesday, January 31, 1984 - 4:00 p.m.

Regular Meeting

Mayor Larry McDevitt, Presiding; Vice-Mayor Wilhelmina Bratton; Councilwomen Mary Lloyd Frank and Norma T. Price; Councilmen Gordon Myers, Walter R. Boland, and Louis Bissette; Corporation Counsel William F. Slawter; City Manager K. M. Michalove, Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: None

INVOCATION

The invocation was given by Councilman Gordon Myers.

APPROVAL OF MINUTES

1. Approval of the minutes of January 24, 1984 meeting.

Mayor McDevitt noted several corrections to the minutes for January 24, 1984 being on page 314, the amounts changing in paragraph six to $3,140,000. from the City and $1,560,000 from the County for total project of $51,116,000. with private funding.

Upon motion of Councilwoman Price, seconded by Councilman Boland, the minutes of the January 24, 1984 meeting were approved as amended.

PROCLAMATION - "HUMAN RELATIONS MONTH" - FEBRUARY, 1984

2. Mayor McDevitt read a proclamation proclaiming February, 1984 as "Human Relations Month".

Mayor McDevitt presented the proclamation to Bob Smith with the Asheville-Buncombe County Community Relations Council.

PROCLAMATION - "BLACK AWARENESS AND BLACK HISTORY MONTH-FEBRUARY, 1984

Mayor McDevitt read a proclamation proclaiming February, 1984 as "Black Awareness and Black History month".

Vice-Mayor Bratton recognized Mr. Bl Garner, Chairman of the Asheville-Buncombe County Community Relations Council who was in attendance at the meeting.

PROCLAMATION - "CATHOLIC SCHOOLS WEEK" - JANUARY 30 - FEBRUARY 3, 1984

Mayor McDevitt proclaimed January 30 - February 3, 1984 as "Catholic Schools Week".

PROCLAMATION - "NATIONAL SALUTE TO HOSPITALIZED VETERANS WEEK" - FEBRUARY 13-17, 1984

Mayor McDevitt proclaimed February 13 - 17, 1984 as "National Salute to Hospitalized Veterans Week".

SCHEDULING PUBLIC HEARING - DESIGNATING "OVERLOOK" - 710 TOWN MOUNTAIN ROAD - HISTORIC PROPERTY

8. Councilman Myers moved to schedule a public hearing relative to the adoption of an ordinance designating a building and property known as "Overlook", located at 710 Town Mountain Road as historic property for February 21, 1984. This motion was seconded by Councilwoman Price and carried unanimously.

RESOLUTION NO. 84-22 - RESOLUTION OF INTENT TO CLOSE AN UNNAMED AND UNOPENED ALLEY BETWEEN AZALEA DRIVE AND UNNAMED STREET IN HOMELAND PARK AND CALLING A PUBLIC HEARING ON THE QUESTION FOR MARCH 6, 1984

9. Consideration was given to a Resolution of Intent to close an unnamed and unopened alley between Azalea Drive and unnamed street in Homeland Park and scheduling a public hearing on the question for March 6, 1984.

The City Manager said members of Council were furnished copies of the Resolution and it would not be read in its entirety.

Upon motion of Councilman Boland, seconded by Councilwoman Frank, Resolution No. 84-22 was unanimously adopted.

Complete text of Resolution No. 84-22 will be found in Resolution Book No. 14 at page 255.

RESOLUTION NO. 84-23 - RESOLUTION AUTHORIZING THE MAYOR TO SIGN A CONTRACT WITH THE ASHEVILLE AREA CHAMBER OF COMMERCE FOR SUPPLEMENTAL ECONOMIC DEVELOPMENT SERVICES

Consideration was given to a resolution authorizing the Mayor to sign a contract with the Asheville Area Chamber of Commerce for supplemental economic development services.

The City Manager read the resolution.

Upon motion of Vice-Mayor Bratton, seconded by Councilman Myers, Resolution No. 84-23 was unanimously adopted.

Complete text of Resolution 84-23 will be found in Resolution Book No. 14 at page 256.

CLAIMS - PAUL BRANKS (WATER) - DON ACTON (SEWER) - JACK PALMER, JR. (WATER) - LILLIAN SMITH (STREETS) - BEN COATES (SANITATION) - DAN LEWIS (SANITATION)

The City Manager presented claims received from Paul Branks, Don Acton, Jack Palmer, Jr. Lillian Smith, Ben Coates, and Dan Lewis.

Mayor McDevitt referred the claims to the Corporation Counsel for investigation and recommendation.

The City Manager said sealed bids were received to furnish rental uniforms and service to 172 employees in various departments. Four bids were received, low bid was submitted by National Linens, 115 Fairview Road, Asheville, at the weekly rate of 92 cents per change or $52,432.64 for the two-year contract. He said National Linen Service has furnished service for the last four years, and has provided excellent service, and he recommended acceptance of the low bid submitted by National Linen Service.

Councilman Boland moved to award the bid for a two-year uniform rental service contract to National Linen Service. This motion was seconded by Councilwoman Price and carried unanimously.

RESOLUTION NO. 84-20 - RESOLUTION AUTHORIZING, ADOPTING, APPROVING, ACCEPTING, AND RATIFYING THE EXECUTION OF AMENDMENT NO. 1 TO GRANT AGREEMENT FOR PROJECT NO. 6-37-0005-05 BETWEEN THE UNITED STATES OF AMERICA AND THE CITY OF ASHEVILLE, NORTH CAROLINA

6. Consideration was given to a resolution authorizing, adopting, approving, accepting, and ratifying the execution of amendment No. 1 to grant agreement for project No. 6-37-0005-05 between the United States of America and the City of Asheville, North Carolina.

The City Manager said members of Council were furnished copies of the resolution and it would not be read in its entirety.

This amendment deleted tract 5 from the Grant Agreement accepted by Council on September 18, 1979. This amendment is necessary in order to close out the project. (Tract 5 is the Westfeldt property at the airport).

Upon motion of Councilman Boland, seconded by Councilman Bissette, Resolution No. 84-20 was unanimously adopted.

Complete text of Resolution No. 84-20 will be found in Resolution Book No. 14 at page 253.

RESOLUTION NO. 84-21 - RESOLUTION AUTHORIZING MAYOR TO EXECUTE JOINT RESOLUTION BETWEEN CITY OF ASHEVILLE AND N. C. DEPARTMENT OF COMMERCE DECLARING SUPPORT FOR AND PARTICIPATION IN THE NORTH CAROLINA BUSINESS DEVELOPMENT PROGRAM

7. Consideration was given to Resolution authorizing the Mayor to execute joint resolution between the City of Asheville and N. C. Department of Commerce declaring support for and participation in the North Carolina Business Development Program.

The City Manager said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Verl Emrick, Director of Planning, outlined the details of the execution of the Resolution.

Upon motion of Councilwoman Price, seconded by Councilman Boland, Resolution No. 84-21 was unanimously adopted.

Complete text of Resolution No. 84-21 will be found in Resolution Book No. 14 at page 254.

Tuesday - February 7, 1984 - 4:00 p.m.

Regular Meeting

Present: Mayor Larry McDevitt, Presiding; Vice-Mayor Wilhelmina Bratton; Councilwomen Mary Lloyd Frank and Norma T. Price; Councilmen Gordon Myers, Walt Boland, and Louis Bissette; Corporation Counsel William F. Slawter; City Manager K. M. Michalove, Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: None

INVOCATION

The invocation was given by Councilwoman Mary Lloyd Frank.

APPROVAL OF THE MINUTES

1. Approval of the minutes of January 31, 1984 meeting.

Upon motion of Councilman Boland, seconded by Councilman Bissette, the minutes of the January 31, 1984 meeting were unanimously approved as submitted.

ORDINANCE NO. 1428 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN "AS AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE", AS AMENDED. (SOUTH BUNCOMBE AREA)

2. Consideration was given to the second reading of Ordinance No. 1428, an Ordinance amending Ordinance No. 322, known as "an Ordinance providing for the zoning of the City of Asheville", as amended. (South Buncombe Area)

Mayor McDevitt said this ordinance was previously read on first reading and would not be re-read in its entirety.

On a roll call vote of 7-0, Ordinance No. 1428 passed on second reading.

ORDINANCE NO. 1426 - AN ORDINANCE AMENDING ORDINANCE GRANTING FRANCHISE TO THOMS BROADCASTING COMPANIES, INC. AS SUCH AS BEEN ASSIGNED TO AMERICAN CABLE TV INVESTORS, LIMITED PARTNERSHIP

3. Consideration was given to the third reading of Ordinance No. 1426, an Ordinance amending ordinance granting franchise to the Thoms Broadcasting Companies, Inc. as such as been assigned to American Cable TV Investors, a Limited Partnership.

Mayor McDevitt said this ordinance was previously read on first and second readings and would not be re-read in its entirety.

On a roll call vote of 7-0, Ordinance No. 1426 passed on third and final reading.

Complete text of Ordinance No. 1426 will be found in Ordinance Book No. 10 at page 103 - 104.

ADJOURNMENT

Upon motion of Councilman Bissette, seconded by Councilwoman Frank, the meeting adjourned at 4:55 p.m.

Ray McDevitt
MAYOR

William F. Nolan
CITY CLERK

ANNOUNCEMENT OF COUNCIL MEMBERS APPOINTMENTS TO BOARDS AND COMMITTEES

Mayor McDevitt said during the Council Retreat February 3 - 5, 1984, Council established the following Standing Committees:

Transportation Committee	Mary Lloyd Frank, Chairman Gordon S. Myers Norma T. Price
Personnel Committee	Norma T. Price, Chairman Louis Bissette Mary Lloyd Frank
Intergovernmental Services Committee	Louis Bissette, Chairman Mary Lloyd Frank Walter Boland
Economic Development Committee	Walter Boland, Chairman Louis Bissette Wilhelmina Bratton
Water & Sewer Committee	Gordon Myers, Chairman Norma T. Price Mary Lloyd Frank
Community Services Committee	Norma T. Price, Chairman Wilhelmina Bratton Walter Boland

AD-HOC COMMITTEES

Auditor Selection Committee	Gordon Myers, Chairman Norma T. Price Louis Bissette
Committee, Committee	Mary Lloyd Frank, Chairman Louis Bissette Walter Boland
Manager Selection Committee	Larry McDevitt, Chairman Norma T. Price Louis Bissette Walter Boland Mary Lloyd Frank

RESOLUTION NO. 84-24 - RESOLUTION APPOINTING MEMBER TO THE ASHEVILLE-BUNCOMBE WATER AUTHORITY (GORDON S. MYERS)

4. Consideration was given to a resolution appointing Gordon S. Myers as a member of the Asheville-Buncombe Water Authority.

The City Manager said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Bissette, seconded by Councilman Boland, Resolution No. 84-24 was unanimously adopted.

Complete text of Resolution No. 84-24 will be found in Resolution Book No. 14 at Page 257.

Mayor McDevitt requested that the following letter be included in the minutes:

Honorable James B. Hunt, Jr.
Governor
State of North Carolina
State Capitol
Raleigh, N. C. 27611

Dear Governor Hunt,

This letter will serve as notice of my resignation from the Local Government Commission effective February 7, 1984. I do so with reluctance, however, I have been appointed by the Asheville City Council to the Asheville Buncombe Water Authority as Council representative. State law limits individuals to one elected and one appointed post, thus the reason for my resignation.

Although the choice was difficult, our city is facing some very hard decisions in the near future concerning a major expansion of our water system. I trust you understand my reasons for this action and greatly appreciate your past confidence in appointing me to this important Commission.

I look forward to continuing to work for Jim Hunt and the Great State of North Carolina and please call on me at any time I can be of assistance.

Sincerely yours,

Gordon S. Myers
President

cc: Harlan E. Boyles
State Treasurer

John D. Foust
Sec. to Local Govt. Commission

GSM/cb

Councilwoman Price moved that the Planning & Zoning Commission consider the Montford Community Club's recommendation for rezoning in the Montford area during their March meeting. She further moved that the Montford Community Club be requested to meet with the Community Services Committee to discuss the Montford Community Club's plan and any other concerns that they might have. This motion was seconded by Councilman Boland and carried unanimously.

CLAIMS - JESSE MORROW (SEWER) - SUSAN GWALTNEY (SEWER) - DOROTHY MOORE (SEWER) - BHAGU PATEL (WATER) - HENRY GLAZE (WATER)

The City Manager presented claims received from Jesse Morrow, Susan Gwaltney, Dorothy Moore, Bhagu Patel, and Henry Glaze.

Mayor McDevitt referred the claims to the Corporation Counsel for investigation and recommendation.

SCHEDULING PUBLIC HEARING - REZONING PROPERTY LOCATED ON PEARSON BRIDGE ROAD - MR. BILL CARROLL

Councilwoman Frank moved to schedule a public hearing relative to rezoning property on Pearson Bridge Road for Mr. Bill Carroll for February 28, 1984. This motion was seconded by Councilman Boland and carried unanimously.

SCHEDULING PUBLIC HEARING - REZONING PROPERTY - EMMA ROAD - MR. CARROLL FOWLER

Councilwoman Frank moved to schedule a public hearing relative to rezoning property on Emma Road for Mr. Carroll Fowler for February 28, 1984. This motion was seconded by Councilman Boland and carried unanimously.

SCHEDULING PUBLIC HEARING - SITE PLAN OF PROPOSED "MAPLE TERRACE" - EMMA ROAD

Councilwoman Frank moved to schedule a public hearing relative to the site plan of the proposed "Maple Terrace" apartments to be located on Emma Road for February 28, 1984. This motion was seconded by Councilman Boland and carried unanimously.

ADJOURNMENT

Upon motion of Councilwoman Frank, seconded by Councilman Bissette, the meeting adjourned at 4:45 p.m.

Lou McDevitt
MAYOR

Miriam J. Wolcott
CITY CLERK

Mayor McDevitt said the Council also appointed the following liaison assignments:

BOARD OR COMMISSION	COUNCILMEN
Housing Authority	Walter R. Boland
Asheville-Buncombe County Community Relations Council	Louis Bissette
Asheville-Buncombe Development Corporation	Wilhelmina Bratton
Parks & Recreation	Louis Bissette
Economic Development Committee - Chamber of Commerce	Walter Boland
Asheville Transit Authority	Mary Lloyd Frank
Civic Center	Gordon Myers
Buncombe County Energy Commission	Mary Lloyd Frank
Water Authority	Gordon Myers
Transportation Advisory Committee	Gordon Myers Norma T. Price
Planning & Zoning Board	Louis Bissette
Chamber of Commerce Board	Larry McDevitt Gordon Myers
Land-of-Sky Regional Council	Norma T. Price Mary Lloyd Frank
Tourism Authority	Norma T. Price
Crime Stoppers	Norma T. Price

Councilman Boland moved that the Committees outlined by Mayor McDevitt be established by City Council. This motion was seconded by Councilwoman Price and carried unanimously.

REPORT FROM WATER & SEWER COMMITTEE - COMMUNITY SERVICES COMMITTEE

Councilwoman Price said the Asheville Riverfront Committee of the French Board River Foundation is conducting a tour of the riverfront on Saturday morning, February 11, 1984 at 10:30 a.m. She said the tour would be to survey the riverfront in Asheville.

Councilwoman Price said the Community Services Committee reviewed a request from the Montford Community Club requesting a moratorium on all rezonings in the Montford area.

Councilwoman Price moved for the adoption of Ordinance No. 1429. This motion was seconded by Councilman Bissette.

On a roll call vote of 7-0, Ordinance No. 1429 passed on first reading.

PUBLIC HEARING - REZONING PROPERTY LOCATED ON JOHNSTON SCHOOL ROAD

ORDINANCE NO. 1430 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED

3. A public hearing was held relative to rezoning property located on Johnston School Road.

Mayor McDevitt opened the public hearing at 4:12 p.m.

The City Manager presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning said the Asheville Planning and Zoning Commission at a meeting held on January 11, 1984, considered the petition of Mr. Albert Rodgers that Ward 6, Sheet 19, Lot 5 be rezoned from R-3-Residential District to LI-Light Industrial District. After discussion, the Commission voted to recommend to City Council that the property be rezoned from R-3-Residential District to LI-Light Industrial District.

Mr. Emrick said there was no particular use proposed at the present time and no opposition had been received for the rezoning.

Mayor McDevitt closed the public hearing at 4:14 p.m.

The City Manager said members of Council were furnished copies of the ordinance and it would not be read in its entirety.

Councilwoman Frank moved for the adoption of Ordinance No. 1430. This motion was seconded by Councilman Myers.

On a roll call vote of 7-0, Ordinance No. 1430 passed on first reading.

PUBLIC HEARING - AMENDING ZONING ORDINANCE - R-1 SINGLE FAMILY RESIDENTIAL DISTRICT

ORDINANCE NO. 1431 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED, TO PERMIT THE CONVERSION OF EXISTING APARTMENTS TO CONDOMINIUM OWNERSHIP IN THE R-1 DISTRICT

4. A public hearing was held relative to amending the zoning ordinance to permit the conversion of existing apartments to condominium ownership in the R-1 district.

Mayor McDevitt opened the public hearing at 4:15 p.m.

The City Manager presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said the Asheville Planning and Zoning Commission at a metting held on January 11, 1984, voted to recommend to City Council

Tuesday February 14, 1984 - 4:00 p.m.

Regular Meeting

Present: Mayor Larry McDevitt, Presiding; Vice-Mayor Wilhelmina Bratton; Councilwomen Mary Lloyd Frank and Norma T. Price; Councilmen Gordon Myers, Walter R. Boland, and Louis Bissette; Corporation Counsel William F. Slawter; City Manager K. M. Michalove, Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: None

INVOCATION

The invocation was given by Councilman Walter R. Boland.

APPROVAL OF THE MINUTES

1. Approval of the minutes of the February 7, 1984 meeting.

Councilwoman Price noted that she had given several changes to the minutes to the City Clerk.

Upon motion of Councilwoman Price, seconded by Councilwoman Frank, the minutes of the February 7, 1984 meeting were unanimously approved as amended.

PUBLIC HEARING - REZONING PROPERTY LOCATED ON SWEETEN CREEK ROAD

ORDINANCE NO. 1429 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED

2. A public hearing was held relative to rezoning property located on Sweeten Creek Road.

Mayor McDevitt opened the public hearing at 4:05 p.m.

The City Manager presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said the Asheville Planning and Zoning Commission at a meeting held on January 11, 1984, considered the requests of Mr. Peter Hall, owner, PECO, Inc., and Engineering Products, Inc., that his property on Sweeten Creek Road be rezoned from CS-Commercial Service District to HI-Heavy Industrial District. After review and discussion, the Commission voted to recommend to City Council that the property be rezoned from R-3 and CS-Commercial Service District to LI-Light Industrial District. He said the purpose for the rezoning is to expand an existing business. He said this would also take the present business out of a non-conforming use classification. He said the expansion would provide additional job force in the city.

Mayor McDevitt closed the publice hearing at 4:10 p.m.

The City Manager said members of Council were furnished copies of the ordinance and it would not be read in its entirety.

Assistant City Manager, William Wolcott, said he had received a request from Neagele Outdoor Advertising requesting that action on the sign permit be postponed for at least one week, giving them an opportunity to appear before Council.

Mr. Mac Cogburn spoke in opposition to approval of the sign permit, stating that the sign would detract from the attractiveness of the area, and would be detrimental to a proposed development in the area.

Mr. Michael Drye also spoke in opposition to the approval of the sign permit.

After discussion, Councilman Myers moved to deny the sign permit for Neagele Outdoor Advertising Company for placement of a billboard advertising sign on Poplar Street. This motion was seconded by Councilwoman Price.

Councilman Bissette made a substitute motion to defer action on the sign permit for two weeks, giving Neagele Outdoor Advertising Company an opportunity to be heard by Council. This motion died for the lack of a second.

Mayor McDevitt called for a vote on the original motion to deny the permit. This motion passed on a vote of 6-1, with Mayor McDevitt voting "no."

Mayor McDevitt said he voted "no" on the denial of the permit because he felt Council should give Neagele Outdoor Advertising Company an opportunity to be heard.

Councilman Boland requested a list of signs approved/disapproved by Council which are situated closer than 600 feet from a limited access highway.

After discussion, it was the consensus of Council to refer Councilman Boland's request to the Community Services Committee to develop this information and to look into the procedure for approval of such sign permits.

RESOLUTION NO. 84-25 - RESOLUTION OF SUPPORT AND COMMITMENT TO FUND THE WALL STREET AND PACK PLAZA DOWNTOWN DEVELOPMENT PROJECTS

8. Consideration was given to a resolution of support and commitment to fund the Wall Street and Pack Plaza Downtown Development projects.

The City Manager said members of City Council were furnished copies of the resolution, and it would not be read in its entirity.

Verl Emrick, Director of Planning, said this resolution would provide HUD with evidence of the local funding commitment to be submitted with the UDAG applications.

Ralph Bishop spoke in opposition to any downtown development.

Upon motion of Councilwoman Price, seconded by Councilman Boland, Resolution No. 84-25 was unanimously adopted.

Complete text of Resolution No. 84-25 will be found in Resolution Book No. 10 at page 258.

that Asheville Zoning Ordinance No. 322 be amended to permit existing apartment units in the R-1-Residental District to be converted to condominiums as a conditional use. He said the conditional use would have to be approved by the Board of Adjustments. He outlined the guidelines for the conditional uses for condominiums in the R-1 district.

Mayor McDevitt closed the public hearing at 4:25 p.m.

The City Manager said members of Council were furnished copies of the ordinance and it would not be read in its entirety.

Councilman Boland moved for the adoption of Ordinance No. 1431. This motion was seconded by Councilwoman Price.

On a roll call vote of 6-1, Ordinance No. 1431 passed on first reading, with Mayor McDevitt voting "no."

ORDINANCE NO. 1428 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING FOR THE CITY OF ASHEVILLE," AS AMENDED (SOUTH BUNCOMBE AREA)

5. Consideration was given to the third reading of Ordinance No. 1428, an ordinance amending Ordinance No. 322, known as "an ordinance providing for the zoning of the City of Asheville, as amended (South Buncombe area).

The City Manager said members of Council were furnished copies of the ordinance and it would not be re-read in its entirety.

On a roll call vote of 7-0, Ordinance No. 1428 passed on third and final reading.

Complete text of Ordinance No. 1428 will be found in Ordinance Book No. 10, at page 106-107.

SCHEDULING PUBLIC HEARING - REZONING PROPERTY ON WHITE PINE DRIVE

6. Councilman Boland moved to schedule a public hearing relative to rezoning property on White Pine Drive for March 13, 1984. This motion was seconded by Councilman Myers and carried unanimously.

REQUEST FOR APPROVAL OF SIGN PERMIT - NEAGELE OUTDOOR ADVERTISING - BILLBOARD SIGN ON POPLAR STREET

7. Consideration was given to a motion approving a sign permit for Neagele Outdoor Advertising for placement of a billboard advertising sign on Poplar Street.

Verl Emrick, Director of Planning, said Neagele Outdoor Advertising has applied for a sign permit to erect a billboard advertising sign on Poplar Street. He said this permit requires the approval of City Council pursuant to the Zoning Ordinance in that the sign will be situated closer than 600 feet from a limited access highway. He said the sign would be 300 square feet, double-faced. He said no such sign has been allowed on this section of I-240 in the past.

After the executive session, the Council went into open meeting.

DISCUSSION RELATIVE TO SCHOOL BOND REFERENDUM RESOLUTION

It was the consensus of Council to consider a resolution relative to the school bond referendum on February 28, 1984.

COUNCIL COMMITTEE REASSIGNMENTS

Mayor McDevitt announced the appointment of Gordon Myers to the Intergovernmental Services Committee and Walter R. Boland to the Community Services Committee.

RALPH BISHOP - LOTTERY SALES

Ralph Bishop again spoke to Council relative to the lottery sales in the City of Asheville.

ADJOURNMENT

Upon motion, the meeting adjourned.

Leon McDevitt
MAYOR

William F. Maheux
CITY CLERK

RESOLUTION NO. 84-26 - RESOLUTION AUTHORIZING MAYOR OF THE CITY OF ASHEVILLE TO NEGOTIATE WITH THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT WITH RESPECT TO MINOR CHANGES IN THE UDAG APPLICATION PROCESS

9. Consideration was given to a resolution authorizing the Mayor of the City of Asheville to negotiate with the United States Department of Housing and Urban Development with respect to minor changes in the UDAG application process.

The City Manager said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Mayor McDevitt requested that the resolution be amended to authorize the Mayor or his designee or the Vice-Mayor to negotiate with HUD and make minor changes in the UDAG application process.

Upon motion of Councilman Bissette, seconded by Councilwoman Price, Resolution No. 84-26 was unanimously approved as amended.

Complete text of Resolution No. 84-26 will be found in Resolution Book No. 14 at page 259.

RESOLUTION NO. 84-27 - RESOLUTION AUTHORIZATION SETTLEMENT OF CLAIM (FREDDIE M. DOAN -TIMMY GENE MCMAHAN)

10. Consideration was given to a resolution authorizing a settlement of claim by and between the City of Asheville, its employee Freddie M. Doan, and the third-party defendant Timmy Gene McMahan.

The City Manager read the resolution.

Mayor McDevitt noted that the Corporation Counsel is authorized to negotiate a settlement of this claim.

Upon motion of Councilwoman Frank, seconded by Councilman Boland, Resolution No. 84-27 was unanimously adopted.

Complete text of Resolution No. 84-27 will be found in Resolution Book No. 14 at page 260.

CITY MANAGER AUTHORIZED TO APPROVE BANNERS - FOR SOUTHERN BASKETBALL CONFERENCE

Councilman Boland moved to authorize the City Manager to approve the placement of banners for the Southern Basketball Conference to be held in March at the Asheville Civic Center. This motion was seconded by Councilwoman Frank and carried unanimously.

RECESS TO EXECUTIVE SESSION

Councilman Boland moved that Council recess in to Executive Session. This motion was seconded by Mayor McDevitt and carried unanimously.

PUBLIC HEARING CLOSING KENILWORTH DRIVE AT ITS INTERSECTION WITH PICKWICK DRIVE

RESOLUTION NO. 84-28 - RESOLUTION TO CLOSE KENILWORTH DRIVE AT ITS INTERSECTION WITH PICKWICK DRIVE IN THE CITY OF ASHEVILLE, NORTH CAROLINA

3. A public hearing was held relative to closing Kenilworth Drive at its intersection with Pickwick Drive.

Vice-Mayor Bratton opened the public hearing at 4:15 p.m.

The City Manager presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said the Asheville Planning and Zoning Commission at its December 14th meeting received a petition that Kenilworth Drive be dead-ended at its intersection with Pickwick Drive. This petition was from property owners adjacent to the proposed Summey apartments and supported by the Kenilworth Residents Association. The Commission felt that approval of the Summey Apartments should not be contingent upon this petition, and voted to transmit it to City Council as a separate issue. On January 17, 1984, Council scheduled a public hearing relative to the closing of this street.

Mr. Emrick said the Traffic Engineer had recommended three alternatives: (a) That a cul-de-sac be installed at the dead-end of Kenilworth Drive with a 25 foot radius which would be within the existing right-of-way at a cost of approximately $3,000.00. (b) To divert the cul-de-sac to one side of the road, within the existing right-of-way, at a cost of approximately $3,000.00. (c) To install a guard rail section at the end of Kenilworth Drive and to place appropriate signage. He said from a cost standpoint, the Traffic Engineer would recommend alternate (c), however, if Council chose not to install the guard rail, to go with alternate (a).

A discussion was held relative to traffic in the area, restricting use of property, and speed limits on Pickwick Drive.

Mr. Marc Rudow of 47 Kenilworth Drive spoke relative to the closing of Kenilworth Drive. He suggested that appropriate signage be placed on the road to ease the impact of traffic on Pickwick. He said the sign should divert traffic to River Road rather than Pickwick Road. He said the property owners in the area would be satisfied with the installation of a guard rail.

After discussion, Vice-Mayor Bratton closed the public hearing at 4:26 p.m.

The City Manager said members of Council were furnished copies of the ordinance and it would not be read in its entirety.

Upon motion of Councilwoman Frank, seconded by Councilman Boland, Resolution No. 84-28 was unanimously adopted.

Complete text of Resolution No. 84-28 will be found in Resolution Book No. 14 at Page 261, 262 and 263.

It was the consensus of Council to install a guard rail section with appropriate signage at the dead-end of Kenilworth Drive at the intersection with Pickwick Drive.

Tuesday - February 21, 1984 - 4:00 p.m.

Regular Meeting

Present: Vice-Mayor Wilhelmina Bratton, Presiding; Councilwoman Mary Lloyd Frank and Norma T. Price; Councilmen Gordon Myers, Walt Boland, and Louis Bissette; Corporation Counsel William F. Slawter; City Manager K. M. Michalove, Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Mayor Larry McDevitt

INVOCATION

The invocation was given by Councilman W. Louis Bissette, Jr.

APPROVAL OF THE MINUTES

1. Approval of the minutes of the February 14, 1984 meeting.

Upon motion of Councilman Boland, seconded by Councilwoman Price, the minutes of the February 14, 1984 meeting were unanimously approved as submitted.

PUBLIC HEARING - DESIGNATING "OVERLOOK" LOCATED AT 710 TOWN MOUNTAIN ROAD AS HISTORIC PROPERTY

ORDINANCE NO. 1432 - AN ORDINANCE DESIGNATING A BUILDING AND PROPERTY KNOWN AS "OVERLOOK" LOCATED AT 710 TOWN MOUNTAIN ROAD AS HISTORIC PROPERTY

2. A public hearing was held relative to designating a building and property known as "Overlook" located at 710 Town Mountain Road as historic property.

Vice-Mayor Bratton opened the public hearing at 4:09 p.m.

The City Manager presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said the Asheville/Buncombe Historic Resources Commission has demonstrated the significance of the building and property and the Division of Archives and History of the North Carolina Department of Cultural Resources has endorsed the findings. He said this property is a significant structure and worthy of being historic property. He said the designation will provide tax advantages to the owner of the property.

Vice-Mayor Bratton closed the public hearing at 4:12 p.m.

The City Manager said members of Council were furnished copies of the ordinance and it would not be read in its entirety.

Councilwoman Price moved for the adoption of Ordinance No. 1432. This motion was seconded by Councilman Bissette.

On a roll call vote of 6-0, Ordinance No. 1432 passed on first reading.

CLAIMS - FORREST HOWARD (WATER) - GENEVA O'SHIELDS (WATER) - BRENDA CUPP (WATER) - R. DEGRAFFINREID (WATER) - JERRY DAVE (STREETS) - CHAS. FORTUNE, SEWER)

The City Manager presented claims received from Forrest Howard, Geneva O'Shields, Brenda Cupp, R. DeGraffinreid, Jerry Dave, and Chas. Fortune.

Vice-Mayor Bratton referred the claims to the Corporation Counsel for investigation and recommendation.

COUNCILWOMAN FRANK - LIAISON TO CABLE TV STUDY COMMITTEE

The City Manager announced the appointment of Councilwoman Frank as a liaison to the Cable TV Study Committee.

REPORT RELATIVE TO ACTION ON SIGN PERMIT - NAEGELE OUTDOOR ADVERTISING COMPANY

The City Manager said he had received a letter from Naegele Outdoor Advertising Company relative to the action Council took on the sign permit for this company on February 14. He requested that the following memorandum be made a part of the minutes:

MEMORANDUM TO: Ken Michalove, City Manager

FROM: William F. Wolcott, Jr. Associate City Manager/City Clerk
Carol Hensley, Deputy City Clerk

DATE: February 21, 1984

Ken, in response to your request of February 21 relative to a written report on what happened relative to the sign permit for Naegele Outdoor Advertising Company, this is to advise that normal routine procedure was to send items for the agenda to the Legal Department for review and placement on the agenda. This was done and the item was placed on the agenda for February 14th. On February 14, Don Dawson with Naegele Outdoor Advertising called our office at approximately 9:30 a.m. stating that he had just found out that the sign permit was on the agenda and would our office request that action on the sign permit be postponed for at least one week in order to give him an opportunity to be heard before Council. Mr. Dawson stated that he could not attend the meeting of February 14. Mr. Dawson was told that our office would relay his request to Council. This was done during the Council meeting and Council chose not to delay action. Mr. Dawson called our office on February 15 and was told of Council's action.

ch

COMMENTS RELATIVE TO DOWNTOWN PROJECT - BARRY OWEN

Mr. Barry Owen, property owner in the Wall Street area, spoke relative to the Downtown Development.

RALPH BISHOP - COMMENTS RELATIVE TO LOTTERY SALES

Ralph Bishop again spoke to Council relative to lottery sales in the City of Asheville.

ORDINANCE NO. 1429 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED (PROPERTY LOCATED ON SWEETEN CREEK ROAD)

4. Consideration was given to the second reading of Ordinance No. 1429, an ordinance amending Ordinance No. 322, known as "An ordinance providing for the zoning of the City of Asheville," as amended (property located on Sweeten Creek Road).

Vice-Mayor Bratton said this ordinance was previously read on first reading and would not be re-read in its entirety unless there was a specific request to do so.

On a roll call vote of 6-0, Ordinance No. 1429 passed on second reading.

ORDINANCE NO. 1430 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED (PROPERTY LOCATED ON JOHNSTON SCHOOL ROAD)

5. Consideration was given to the second reading of Ordinance No. 1430, an ordinance amending Ordinance No. 322, known as "An Ordinance providing for the zoning of the City of Asheville," as amended (property located on Johnston School Road.)

Vice-Mayor Bratton said this ordinance was previously read on first reading and would not be re-read in its entirety unless there was a specific request to do so.

On a roll call vote of 6-0, Ordinance No. 1430 passed on second reading.

ORDINANCE NO. 1431 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED, TO PERMIT THE CONVERSION OF EXISTING APARTMENTS TO CONDOMINIUM OWNERSHIP IN THE R-1 DISTRICT

5. Consideration was given to the second reading of Ordinance No. 1431, an ordinance amending Ordinance No. 322, known as "As Ordinance providing for the zoning of the City of Asheville," as amended. (conversion of existing apartments in R-1 District).

Vice-Mayor Bratton said this ordinance was previously read on first reading and would not be re-read in its entirety unless there was a specific request to do so.

On a roll call vote of 6-0, Ordinance No. 1431 passed on second reading.

COUNCILWOMAN FRANK - RESIGNATIONS ON CABLE TV STUDY COMMITTEE

Councilwoman Frank noted that Mr. Peter Winslow, Chairman of the Cable TV Study Committee had submitted several resignations from members of the Committee.

RESOLUTION NO. 84-31 - RESOLUTION AUTHORIZING SUBMISSION OF A REVISED URBAN DEVELOPMENT GRANT (UDAG) APPLICATION

3. Consideration was given to a resolution authorizing submission of a revised Urban Development grant (UDAG) application.

The City Manager read the resolution.

Upon inquiry of Attorney John Powell, representing property owners in the Wall Street area, Mr. Marvin Vierra outlined the up-to-date changes in the two downtown projects.

Vice-Mayor Bratton said the Memorandum of Understanding agreements had not as yet been finalized.

Council and staff members answered questions of Mr. Powell relative to the schedule of construction, condemnation and the developer acquiring property, and the purchasing of the Performing Arts Center property.

Councilman Bissette said every effort would be exhausted before any condemnation proceedings began. He said if condemnation proceedings were instituted the developer would pay all out-of-pocket costs for condemnation.

Upon inquiry of Jan Ingram, local merchant in the area, Mr. Vierra said there had not been a change in the original properties slated for condemnation by eminent domain.

Upon motion of Councilwoman Frank, seconded by Councilwoman Price, Resolution No. 84-31 was unanimously adopted.

Complete text of Resolution No. 84-31 will be found in Resolution Book No. 14 at Page 268-269.

Councilman Bissette said he had talked with Mayor McDevitt by telephone and stated the Mayor fully supports the passage of all these resolutions. He said this action is only a step closer to the development of downtown and many more steps would be necessary in the future to make this a reality.

ADJOURNMENT

Upon motion of Councilwoman Frank, seconded by Councilwoman Price, the meeting adjourned.

Lou McDevitt
MAYOR

Norman S. Mancuso
CITY CLERK

CONTINUED MEETING - FEBRUARY 22, 1984 - 12:00 NOON

Councilman Boland moved to continue this meeting until Wednesday, February 22, 1984 at 12:00 Noon. This motion was seconded by Councilwoman Frank and carried unanimously.

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Wednesday - February 22, 1984 - 12:00 Noon

Continued Meeting

Present: Vice-Mayor Wilhelmina Bratton, Presiding; Councilwoman Mary Lloyd Frank and Norma T. Price; Councilmen Gordon Myers, Walt Boland, and Louis Bissette; Corporation Counsel William F. Slawter; City Manager K. M. Michalove, Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Mayor Larry McDevitt

RESOLUTION NO. 84-29 - RESOLUTION APPROVING THE RESOLUTION OF INTENT OF THE HOUSING AUTHORITY OF THE CITY OF ASHEVILLE TO ISSUE URBAN REDEVELOPMENT BONDS IN THE AMOUNT NOT TO EXCEED $8,500,000. AND REQUESTING THE HOUSING AUTHORITY TO ADOPT THE RESOLUTION OF INTENT

1. Consideration was given to a resolution approving the Resolution of Intent of the Housing Authority of the City of Asheville to issue Urban Redevelopment bonds in the amount not to exceed $8,500,000. and requesting the Housing Authority to adopt the Resolution of Intent.

The City Manager read the resolution.

Upon motion of Councilman Boland, seconded by Councilwoman Price, Resolution No. 84-29 was unanimously adopted.

Complete text of Resolution No. 84-29 will be found in Resolution Book No. 14 at Page 264 - 265.

RESOLUTION NO. 84-30 - RESOLUTION TO AUTHORIZE THE VICE-MAYOR TO SIGN ON BEHALF OF THE CITY OF ASHEVILLE A MEMORANDUM OF UNDERSTANDING WITH SOUTHEASTERN HISTORIC PROPERTIES, INC., AND NCNB COMMUNITY DEVELOPMENT CORPORATION

2. Consideration was given to a resolution to authorize the Vice-Mayor to sign on behalf of the City of Asheville a Memorandum of Understanding with Southeastern Historic Properties, Inc. and NCNB Community Development Corporation.

The City Manager read the resolution.

Upon motion of Councilman Bissette, seconded by Councilman Myers, Resolution No. 84-30 was unanimously adopted.

Complete text of Resolution No. 84-30 will be found in Resolution Book No. 14 at Page 266-267.

PUBLIC HEARING - REZONING PROPERTY LOCATED ON EMMA ROAD

3. A public hearing was held relative to rezoning property on Emma Road.

Mayor McDevitt opened the public hearing at 4:12 p.m.

The City Manager presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said the Asheville Planning and Zoning Commission, at a meeting held February 1, 1984, considered the petition of Mr. Carroll Fowler and others that Ward 6, Sheet 37, Lots 8, 9, 10, 11, and 12 be rezoned from LI-Light Industrial District to R-5 Residential District. The property is located on Emma Road. After review and discussion, the Commission voted to recommend that the property be rezoned as petitioned.

Mayor McDevitt turned the chair over to Vice-Mayor Bratton.

Mr. Emrick said the reason for the requested rezoning is to accommodate a residential use. He said the developers propose a mobile home park in close proximity to an existing mobile home park. He said the industrial zone does not allow for residential uses.

A discussion was held relative to criteria for mobile home parks and available sewer lines for the proposed development.

After discussion, Mayor McDevitt moved to continue the public hearing for two (2) weeks without further advertisement. This motion was seconded by Councilman Boland and carried on a voice vote of 5-1, with Councilwoman Price voting "no."

Mayor McDevitt took the chair over at 4:22 p.m.

PUBLIC HEARING - REZONING PROPERTY LOCATED ON PEARSON BRIDGE ROAD

ORDINANCE NO. 1433 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED (PROPERTY ON PEARSON BRIDGE ROAD)

4. A public hearing was held relative to rezoning property located on Pearson Bridge Road.

Mayor McDevitt opened the public hearing at 4:23 p.m.

The City Manager presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said the Asheville Planning and Zoning Commission at a meeting held February 1, 1984, considered the petition of Mr. Bill Carroll that Ward 12, Sheet 26, Lots 10 and 46, be rezoned from R-5 Residential District to LI-Light Industrial District. The property is located on Pearson Bridge Road. After review and discussion, the Commission voted to recommend to City Council that the property be rezoned as petitioned. He said no opposition had been received relative to the rezoning from neighboring residents.

Mayor McDevitt closed the public hearing at 4:26 p.m.

Tuesday - February 28, 1984 - 4:00 p.m.

Regular Meeting

Present: Mayor Larry McDevitt, Presiding; Vice-Mayor Wilhelmina Bratton; Councilwomen Mary Lloyd Frank and Norma T. Price; Walter R. Boland, and Louis Bissette; Corporation Counsel William F. Slawter; City Manager K. M. Michalove, Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Councilman Gordon Myers.

INVOCATION

The invocation was given by Councilwoman Norma T. Price.

APPROVAL OF THE MINUTES

1. Approval of the minutes of the February 21, 1984 meeting.

Upon motion of Councilwoman Price, seconded by Councilwoman Frank, the minutes of the February 21, 1984 meeting were unanimously approved as submitted.

PUBLIC HEARING - SITE PLAN OF THE PROPOSED "MAPLE TERRACE" APARTMENTS - EMMA ROAD

2. A public hearing was held relative to the site plan of the proposed "Maple Terrace" apartments to be located on Emma Road.

Mayor McDevitt opened the public hearing at 4:05 p.m.

The City Manager presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said the Asheville Planning and Zoning Commission at a meeting held February 1, 1984 reviewed the site plan of the proposed "Maple Terrace" apartments to be located on Emma Road. The plan was prepared by Richard Thornton, Architect, for Allen Moss, developer, and submitted in accordance with the group development section of the Asheville Zoning Ordinance. After review and discussion of the plan, the Commission voted to recommend approval to City Council subject to compliance with the Erosion Control Ordinance.

Mr. Emrick said this project would include 13 units with an existing dwelling. He said the project meets all respects of the zoning ordinance.

Mayor McDevitt closed the public hearing at 4:11 p.m.

Councilwoman Frank moved for the approval of the site plan of the proposed "Maple Terrace" apartments to be located on Emma Road subject to the conditions outlined by the Asheville Planning and Zoning Commission. This motion was seconded by Councilwoman Price and carried unanimously.

ORDINANCE NO. 1431 - AN ORDINANCE AMENDING ORDINANCE NO. 322 KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED, TO PERMIT THE CONVERSION OF EXISTING APARTMENTS TO CONDOMINIUM OWNERSHIP IN THE R-1 DISTRICT

8. Consideration was given to the third reading of Ordinance No. 1431, an ordinance amending Ordinance No. 322, known as "an ordinance providing for the zoning of the City of Asheville," as amended. (Conversion of existing apartments in R-1 district.)

Mayor McDevitt said this ordinance was previously read on first and second reading and would not be reread in its entirety unless there was a specific request to do so.

On a roll call vote of 6-0, Ordinance No. 1431 passed on third and final reading.

Complete text of Ordinance No. 1431 will be found in Ordinance Book No. 10 at page 110.

ORDINANCE NO. 1434 - BUDGET ORDINANCE AMENDMENT - SHORT-FALL IN CD ADMINISTRATION BUDGET

9. Consideration was given to a budget ordinance amendment to compensate for short-fall in CD Administration Budget.

The City Manager said members of Council were furnished copies of the ordinance and it would not be read in its entirety. He said this budget amendment in the amount of $5,433 is to compensate for a short-fall in CD Administration Budget due to a single audit being required.

Councilman Boland moved for the adoption of Ordinance No. 1434. This motion was seconded by Councilwoman Price.

On a roll call vote of 6-0, Ordinance No. 1434 passed on first and final reading.

Complete text of Ordinance No. 1434 will be found in Ordinance Book No. 10 at page 115.

RESOLUTION NO. 84-32 - RESOLUTION AUTHORIZING SETTLEMENT OF CLAIM (HARRY E. ADAMS)

10. Consideration was given to a resolution authorizing settlement of a claim (Harry E. Adams).

The City Manager said members of Council were furnished copies of the ordinance and it would not be read in its entirety.

Mayor McDevitt said this resolution will authorize an agreement between the City and Harry E. Adams reinstating the retirement benefits for said employee from January 1, 1980, through August 9, 1982, as a participant in LGERS.

Upon motion of Councilwoman Price, seconded by Councilman Boland, Resolution No. 84-32 was unanimously adopted.

Complete text of Resolution No. 84-32 will be found in Resolution Book No. 14 at page 270.

The City Manager said members of Council were furnished copies of the ordinance and it would not be read in its entirety.

Councilwoman Price moved for the adoption of Ordinance No. 1433. This motion was seconded by Councilman Bissette.

On a roll call vote of 6-0, Ordinance No. 1433 passed on first reading.

ORDINANCE NO. 1432 - AN ORDINANCE DESIGNATING A BUILDING AND PROPERTY KNOWN AS "OVERLOOK" LOCATED AT 710 TOWN MOUNTAIN ROAD AS HISTORIC PROPERTY

Consideration was given to the second reading of Ordinance No. 1432, an ordinance designating a building and property known as "Overlook" located at 710 Town Mountain Road as historic property.

Mayor McDevitt said this ordinance was previously read on first reading and would not be reread in its entirety unless there was a specific request to do so.

On a roll call vote of 6-0, Ordinance No. 1432 passed on second reading.

Complete text of Ordinance No. 1429 will be found in Ordinance Book No. 10 at page 108.

ORDINANCE NO. 1429 - AN ORDINANCE AMENDING ORDINANCE NO. 322 KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED (PROPERTY LOCATED ON SWEETEN CREEK ROAD)

6. Consideration was given to the third reading of Ordinance No. 1429, an ordinance amending Ordinance No. 322, known as "an ordinance providing for the zoning of the City of Asheville," as amended (property located on Sweeten Creek Road).

Mayor McDevitt said this ordinance was previously read on first and second reading and would not be reread in its entirety unless there was a specific request to do so.

On a roll call vote of 6-0, Ordinance No. 1429 passed on second reading.

ORDINANCE NO. 1430 - AN ORDINANCE AMENDING ORDINANCE NO. 322 KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED (PROPERTY LOCATED ON JOHNSTON SCHOOL ROAD)

7. Consideration was given to the third reading of Ordinance No. 1430, an ordinance amending Ordinance No. 322, known as "an ordinance providing for the zoning of the City of Asheville," as amended (property located on Johnston School Road).

Mayor McDevitt said this ordinance was previously read on first and second reading and would not be reread in its entirety unless there was a specific request to do so.

On a roll call vote of 6-0, Ordinance No. 1430 passed on third reading.

Complete text of Ordinance No. 1430 will be found in Ordinance Book No. 10 at page 109.

Complete text of Resolution No. 84-35 will be found in Resolution Book No. 14 at page 273.

RESOLUTION NO. 84-36 - RESOLUTION AUTHORIZING THE DIRECTOR OF PARKS, RECREATION, AND PUBLIC FACILITIES TO MAKE APPLICATION FOR AN ENRICHMENT GRANT FOR A COMPUTER ENRICHMENT PROGRAM

14. Consideration was given to a resolution authorizing the Director of Parks, Recreation, and Public Facilities to make application for an enrichment grant for a computer enrichment program.

The City Manager said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilwoman Price, seconded by Councilwoman Frank, Resolution No. 84-36 was unanimously adopted.

Complete text of Resolution No. 84-36 will be found in Resolution Book No. 14 at page 274.

RESOLUTION NO. 84-37 - RESOLUTION ENDORSING THE BUNCOMBE COUNTY SCHOOL BOND REFERENDUM

15. Consideration was given to a resolution endorsing the Buncombe County School Bond referendum.

The City Manager read the resolution.

Upon motion of Councilman Bissette, seconded by Vice-Mayor Bratton, Resolution No. 84-37 was unanimously adopted.

Complete text of Resolution No. 84-37 will be found in Resolution Book No. 14 at page 275.

Mac McGough, co-sponsor for the Buncombe County School Bond referendum issue, thanked members of Council for their endorsement.

Mr. Osborne Hart, also a co-sponsor in the bond referendum, said he was pleased that Council had taken an issue and endorsed the passage of the bond issue.

Mayor McDevitt said he felt it was important for a local government body to take a leadership role in such an important issue involving the community. He recommended and urged the citizens of Asheville and Buncombe County to vote for the bond issue.

RESOLUTION NO. 84-38 - RESOLUTION OF INTENT TO CLOSE A PUBLIC ALLEY LYING BETWEEN HILLIARD AVENUE AND SAWYER STREET AND CALLING A PUBLIC HEARING ON THE QUESTION FOR APRIL 10, 1984

16. Consideration was given to a resolution of intent to close a public alley lying between Hilliard Avenue and Sawyer Street and calling a public hearing on the question for April 10, 1984.

The City Manager said members of Council were furnished copies of the resolution and it would not be read in its entirety.

RESOLUTION NO. 84-33 - RESOLUTION REQUIRING THAT INFORMATION BE PROVIDED TO THE ASHEVILLE CITY COUNCIL RELATIVE TO THE FINANCIAL CONDITION AND PERFORMANCE OF ITS CABLE TELEVISION SERVICES PROVIDERS

11. Consideration was given to a resolution requiring that information be provided the Asheville City Council relative to the financial condition and performance of its cable television services providers.

The City Manager said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Mayor McDevitt said the Asheville-Buncombe County Cable Television Committee has recommended that certain information be provided to the City Council by cable television companies. He said this resolution will require such information from the companies.

Councilman Boland said this action will allow the City Council to evaluate more clearly and effectively cable television rates, customer satisfaction, and concerted efforts to provide service to all residents of the city. He requested that a copy of the resolution be forwarded to Mr. John Jerose and Mr. Pete Winslow.

Upon motion of Councilman Boland, seconded by Councilman Bissette, Resolution No. 84-33 was unanimously adopted.

Complete text of Resolution No. 84-33 will be found in Resolution Book No. 14 at page 271.

RESOLUTION NO. 84-34 - RESOLUTION APPOINTING AN INTERIM CITY MANAGER (WILLIAM F. WOLCOTT, JR.)

12. Consideration was given to a resolution appointing an interim City Manager (William F. Wolcott, Jr.)

The City Manager said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Vice-Mayor Bratton, seconded by Councilwoman Frank, Resolution No. 84-34 was unanimously adopted.

Complete text of Resolution No. 84-34 will be found in Resolution Book No. 14 at page 272.

RESOLUTION NO. 84-35 - RESOLUTION AUTHORIZING DIRECTOR OF PARKS, RECREATION, AND PUBLIC FACILITIES DEPARTMENT TO ENTER INTO AN AGREEMENT WITH THE BUNCOMBE COUNTY COUNCIL ON AGING FOR THE USE OF CERTAIN RECREATION CENTERS AS MEAL SITES FOR THE ELDERLY

13. Consideration was given to a resolution authorizing Director of Parks, Recreation, and Public Facilities Department to enter into an agreement with the Buncombe County Council on Aging for the use of certain recreation centers as meal sites for the elderly.

The City Manager said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Boland, seconded by Councilwoman Frank, Resolution No. 84-35 was unanimously adopted.

RESOLUTION NO. 84-39 - RESOLUTION OF APPRECIATION TO KENNETH M. MICHALOVE FOR HIS SERVICES AS CITY MANAGER FOR THE CITY OF ASHEVILLE

Consideration was given to a resolution of appreciation to Kenneth M. Michalove for his services as City Manager of the City of Asheville.

Mayor McDevitt read the resolution.

The resolution was unanimously approved by Council.

Complete text of Resolution No. 84-39 will be found in Resolution Book No. 14 at page 277.

Mayor McDevitt presented a copy of the resolution and a plaque in appreciation for his services to Kenneth M. Michalove.

ADJOURNMENT

Mayor McDevitt adjourned the meeting at 5:00 p.m.

Larry McDevitt
MAYOR

Susan F. Walker
CITY CLERK

Upon motion of Councilwoman Price, seconded by Councilwoman Frank, Resolution No. 84-38 was unanimously adopted.

Complete text of Resolution No. 84-38 will be found in Resolution Book No. 14 at page 276.

ORDINANCE NO. 1435 - BUDGET ORDINANCE AMENDMENT - PREPARATION OF THE REDEVELOPMENT PLAN BY THE ASHEVILLE HOUSING AUTHORITY - DOWNTOWN PROJECTS

Consideration was given to a budget ordinance amendment to provide funds in the amount of $70,653 to authorize the preparation of the redevelopment plan by the Asheville Housing Authority.

The City Manager said this funding is provided from the close out of the Asheville-Buncombe Revitalization Fund uncommited surplus of $70,653. He said the additional funding will be utilized to fund cost associated with the downtown projects such as travel, printing, etc.

Councilwoman Price moved for the adoption of Ordinance No. 1435. This motion was seconded by Councilwoman Frank.

On a roll call vote of 6-0, Ordinance No. 1435 passed on first reading.

Complete text of Ordinance No. 1435 will be found in Ordinance Book No. 10 at page 116.

PETITION - PROPERTY OWNERS ALONG SCHOOL ROAD - PLACEMENT OF SCHOOL ROAD ON CITY OF ASHEVILLE STREET SYSTEM

The City Manager presented a petition received from property owners along School Road requesting that the City of Asheville place School Road on the City of Asheville street system. He recommended that the petition be forwarded to the Public Works Department for investigation and recommendation.

Mayor McDevitt referred the petition to the Public Works Department.

CLAIMS - ROGER KEENER (POLICE) - HILDA SULLIVAN (STREETS) - MARY B. LEWIS (WATER) - STEVE BRADY (SEWER)

The City Manager presented claims received from Roger Keener, Hilda Sullivan, Mary B. Lewis, and Steve Brady.

Mayor McDevitt referred the claims to the Corporation Counsel for investigation and recommendations.

LAWSUITS - OSCAR AND BARBARA DAVIS (POLICE)

The City Manager said the City was served with a summons in connection with a lawsuit involving Oscar and Barbara Davis relative to an automobile accident.

Mayor McDevitt referred the summons to the Corporation Counsel for investigation and recommendation.

ORDINANCE NO. 1433 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED. (PROPERTY ON PEARSON BRIDGE ROAD.)

3. Consideration was given to the second reading of Ordinance No. 1433, an ordinance amending Ordinance No. 322, known as "An ordinance providing for the zoning of the City of Asheville," as amended. (Property located on Pearson Bridge Road.)

Mayor McDevitt said this ordinance was previously read on first reading and would not be reread in its entirety unless there was a specific request to do so.

On a roll call vote of 7-0, Ordinance No. 1433 passed on second reading.

ORDINANCE NO. 1432 - AN ORDINANCE DESIGNATING A BUILDING AND PROPERTY KNOWN AS "OVERLOOK" LOCATED AT 710 TOWN MOUNTAIN ROAD AS HISTORIC PROPERTY

4. Consideration was given to the third reading of Ordinance No. 1432, an ordinance designating a building and property known as "Overlook" located at 710 Town Mountain Road as Historic Property.

Mayor McDevitt said this ordinance was previously read on first and second reading and would not be reread in its entirety unless there was a specific request to do so.

On a roll call vote of 7-0, Ordinance No. 1432 passed on third and final reading.

Complete text of Ordinance No. 1432 will be found in Ordinance Book No. 10 at page 111-112-113.

RESOLUTION NO. 84-40 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE ALL RIGHT-OF-WAY ENCROACHMENT AGREEMENTS WITH THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION FOR THE CONSTRUCTION OF SEWER LINES OR ANY OTHER RELATED APPURTENANCES THAT ARE TO BE LOCATED WITHIN THE RIGHT-OF-WAY LIMITS OF ANY STATE MAINTAINED ROAD OR HIGHWAY

Consideration was given to a resolution authorizing the Mayor to execute all right-of-way encroachment agreements with the North Carolina Department of Transporation for the construction of sewer lines or any other related appurtenances that are to be located with the right-of-way limits of any state-maintained road or highway.

Mayor McDevitt read the resolution.

Upon motion of Vice-Mayor Bratton, seconded by Councilwoman Frank, Resolution No. 84-40 was unanimously adopted.

Complete text of Resolution No. 84-40 will be found in Resolution Book No. 14 at page 281.

Tuesday - March 6, 1984 - 4:00 p.m.

Regular Meeting

Present: Mayor Larry McDevitt, Presiding; Vice-Mayor Wilhelmina Bratton; Councilwomen Mary Lloyd Frank and Norma T. Price; Councilmen Gordon Myers, Walter R. Boland, and Louis Bissette; Corporation Counsel William F. Slawter; Acting City Manager William F. Wolcott, Jr., Deputy City Clerk Carol Hensley.

Absent: None

INVOCATION

The invocation was given by Mayor Larry McDevitt.

APPROVAL OF THE MINUTES

1. Approval of the minutes of the February 28, 1984 meeting.

Upon motion of Councilwoman Price, seconded by Councilman Boland, the minutes of the February 28, 1984 meeting were unanimously approved as submitted.

PUBLIC HEARING - CLOSING UNNAMED AND UNOPENED ALLEY BETWEEN AZALEA DRIVE AND AN UNNAMED STREET IN HOMELAND PARK

RESOLUTION NO. 84-39 - RESOLUTION TO CLOSE AN UNNAMED AND UNOPENED ALLEY BETWEEN AZALEA DRIVE AND AN UNNAMED STREET IN HOMELAND PARK

2. A public hearing was held relative to closing an unnamed and uopened alley between Azalea Drive and an unnamed street in Homeland Park.

Mayor McDevitt opened the public hearing at 4:06 p.m.

The City Manager presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Larry Ward, with the Public Works Department, said the property owners adjoining the alley between Azalea Drive and an unnamed alley in Homeland Park filed a written petition and request with the Council that the alley be permanently closed. He said the alley is only open on "paper."

The City Manager said reports from department heads indicate no problems with the closing of said alley and street.

Mayor McDevitt closed the public hearing at 4:12 p.m.

The City Manager said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Boland, seconded by Councilman Bissette, Resolution No. 84-39 was unanimously adopted.

Complete text of Resolution No. 84-39 will be found in Resolution Book No. 14 at page 279.

Tuesday - March 13, 1984 - 4:00 p.m.

Regular Meeting

Present: Mayor Larry McDevitt, Presiding; Vice-Mayor Wilhelmina Bratton; Councilwomen Mary Lloyd Frank and Norma T. Price; Councilmen Gordon Myers and Louis Bissette; Corporation Counsel William F. Slawter; Acting City Manager William F. Wolcott, Jr.; Deputy City Clerk Carol Hensley.

Absent: Walter R. Boland.

INVOCATION

The invocation was given by Vice-Mayor Wilhelmina Bratton.

APPROVAL OF THE MINUTES

1. Approval of the minutes of the March 6, 1984 meeting.

Upon motion of Councilwoman Price, seconded by Councilman Bissette, the minutes of the March 6, 1984 meeting were unanimously approved as submitted.

RESOLUTION NO. 84-41 - RESOLUTION OF THANKS AND COMMENDATION TO THE ASHEVILLE AREA CHAMBER OF COMMERCE FOR HELPING MAKE THE 1984 SOUTHERN CONFERENCE BASKETBALL TOURNAMENT A SUCCESS

Consideration was given to a resolution of thanks and commendation to the Asheville Area Chamber of Commerce for helping make the 1984 Southern Conference Basketball Tournament a success.

Mayor McDevitt read the resolution.

Upon motion of Councilwoman Price, seconded by Councilman Bissette, Resolution No. 84-41 was unanimously adopted.

Complete text of Resolution No. 84-41 will be found in Resolution Book No. 14 at page 282.

Mayor McDevitt presented a copy of the resolution to Mr. John Teeter, Chairman of the Chamber of Commerce Basketball Committee and to Mr. Gene Ochsenreiter, President of the Asheville Area Chamber of Commerce.

RESOLUTION NO. 84-42 - RESOLUTION OF THANKS AND COMMENDATION TO THE ASHEVILLE CIVIC CENTER STAFF FOR HELPING MAKE THE 1984 SOUTHERN CONFERENCE BASKETBALL TOURNAMENT A SUCCESS

Consideration was given to a resolution of thanks and commendation to the Asheville Civic Center staff for helping make the 1984 Southern Conference Basketball Tournament a success.

Mayor McDevitt read the resolution.

Upon motion of Councilwoman Frank, seconded by Vice-Mayor Bratton, Resolution No. 84-42 was unanimously adopted.

CLAIMS - CLAUDIA GIBSON (MINOR) - STEVEN KISER (FIRE)

The City Manager presented claims received from Claudia Gibson and Steven Kiser.

Mayor McDevitt referred the claims to the Corporation Counsel for investigation and recommendation.

LAWSUITS - GEORGE AND LOUISE GIBSON (ALLEGED DAMAGE TO RETAINING WALL)

The City Manager said the City was served with a summons in connections with a lawsuit involving George and Louise Gibson relative to alleged damage to retaining wall.

Mayor McDevitt referred the summons to the Corporation Counsel for investigation and recommendation.

RALPH BISHOP - LOTTERY SALES - SELECTION OF CITY MANAGER

Ralph Bishop again spoke to Council relative to the lottery sales in the City of Asheville. He also said the public should be included in the evaluation and selection of a new City Manager.

MOTION TO GO INTO EXECUTIVE SESSION - PERSONNEL MATTERS

At the request of Councilman Myers, Vice-Mayor Bratton moved to go into Executive Session relative to a personnel matter. This motion was seconded by Councilman Myers and carried unanimously.

CONTINUATION OF MEETING UNTIL MARCH 7, 1984, 12:30 P.M.

Councilwoman Price moved to continue the Council meeting until March 7, 1984 at 12:30 p.m. for an Executive Session to meet with Mr. Don Hayman relative to City Manager applications. This motion was seconded by Councilman Boland and carried unanimously.

Larry McDevitt
MAYOR

Marian M. Metcalf
CITY CLERK

RECOGNITION OF LARRY FISHER - DIRECTOR OF FINANCE - PROFESSIONAL ACHIEVEMENT RECOGNITION AWARD - MUNICIPAL FINANCE OFFICERS ASSOCIATION

Mayor McDevitt recognized Mr. Larry Fisher, Director of Finance for the City of Asheville, for receiving the Professional Achievement Recognition (PAR) from the Municipal Finance Officers Association of the United States and Canada.

PUBLIC HEARING - REZONING PROPERTY LOCATED ON WHITE PINE DRIVE

2. A public hearing was held relative to rezoning property located on White Pine Drive.

Mayor McDevitt said the Asheville Planning and Zoning Commission at a meeting held February 1, 1984, considered the request of Mr. Durward Johnson that Ward 8, Sheet 10, Lot 57, be rezoned from R-3 Residential District to OI - Office Institutional District. After discussing the issues of this request, the Commission voted to recommend denial of this petition to City Council. The petitioner has appealed the decision of the Asheville Planning and Zoning Commission, and Council must hold a public hearing on the rezoning matter pursuant to the Zoning Ordinance.

Mayor McDevitt opened the public hearing at 4:25 p.m.

The City Manager presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said he had received a letter from Mr. Ron Payne, confirming that his client, Mr. Durward Johnson, did not wish to pursue the appeal and requested that the appeal be withdrawn. He said no further action of Council is required.

Upon inquiry of Councilwoman Price, Mr. Emrick said this particular rezoning issue was last discussed by Council in February of 1983. He said at that time Council took no action on the rezoning request.

A discussion was held relative to the process of appealing a decision of the Planning and Zoning Commission and the requirement of waiting one year before submitting the same rezoning request.

Jerry Bradley, resident of White Pine Drive, said the residents in the area would like this rezoning issue clarified. He said he would like Council to take action whereby petitioners could not request rezoning of this property for at least one year. He said the residents in the area are opposed to any rezoning in the area.

Councilman Bissette said, if necessary, he would like for Council to vote on the issue in order that it not be permitted to be resubmitted within one year. He also presented Council with a lengthy petition received from Mr. Jerry Bradley from residents in the area opposing the rezoning.

Upon inquiry of Mayor McDevitt, Corporation Counsel Slawter said, in his opinion, the petitioner had followed the procedures in the Zoning Ordinance, appealing the decision of the Asheville Planning and Zoning Commission. Therefore, he may have a right to resubmit the rezoning issue within a one year period if Council took no action on the request.

Complete text of Resolution No. 84-42 will be found in Resolution Book No. 14 at page 283.

Mayor McDevitt presented a copy of the resolution to Mr. Bill Murphy, Director of the Asheville Civic Center.

RESOLUTION NO. 84-43 - RESOLUTION OF THANKS AND COMMENDATION TO THE COCA-COLA BOTTLING COMPANY OF WESTERN CAROLINAS FOR HELPING MAKE THE 1984 SOUTHERN CONFERENCE BASKETBALL TOURNAMENT A SUCCESS

Consideration was given to a resolution of thanks and commendation to the Coca-Cola Bottling Company of Western Carolinas for helping make the 1984 Southern Conference Basketball Tournament a success.

Mayor McDevitt read the resolution.

Upon motion of Councilman Bissette, seconded by Councilwoman Price, Resolution No. 84-43 was unanimously adopted.

Complete text of Resolution No. 84-43 will be found in Resolution Book No. 14 at page 284.

Mayor McDevitt presented a copy of the resolution to Mr. Bill Bosworth and Mr. Andy Harris with the Coca-Cola Bottling Company.

RESOLUTION NO. 84-44 - RESOLUTION OF THANKS AND COMMENDATION TO THE JUNIOR LEAGUE OF ASHEVILLE FOR HELPING MAKE THE 1984 SOUTHERN CONFERENCE BASKETBALL TOURNAMENT A SUCCESS

Consideration was given to a resolution of thanks and commendation to the Junior League of Asheville for helping make the 1984 Southern Conference Basketball Tournament a success.

Mayor McDevitt read the resolution.

Upon motion of Councilman Myers, seconded by Councilwoman Frank, Resolution No. 84-44 was unanimously adopted.

Complete text of Resolution No. 84-44 will be found in Resolution Book No. 14 at page 285.

Mayor McDevitt presented a copy of the resolution to Ellen Carr and Lynn Trotter with the Junior League of Asheville.

PROCLAMATION - "NATIONAL SURVEYORS WEEK" - MARCH 11-17, 1984

Mayor McDevitt read a proclamation proclaiming March 11-17, 1984 as "National Surveyors Week."

Mayor McDevitt presented a copy of the resolution to Bobby McMahan, President of the Western Chapter of the North Carolina Society of Surveyors. He also recognized a number of other surveyors in attendance.

APPROVAL OF SALE OF DISPOSAL PARCELS - EAST RIVERSIDE RENEWAL PROJECT AND EAST END/VALLEY STREET PROJECTS

5. Mayor McDevitt said the Housing Authority of the City of Asheville has tentatively accepted the following bids for disposal parcels in the East Riverside Renewal Project and East End/Valley Street Projects:

Parcel	Reuse	Location	Price	Bid	Redeveloper
130	Residental	Adams St.	2,100	2,100	Allen & Barbara Doster
11, 21, 32	Church	Carroll St.	23,700	23,700	Triedstone Bapt. Church
40	Residental	Pine & Weaver St.	2,500	2,700	R & R Associates

Councilwoman Frank moved to approve the sale of the disposal parcels as recommended by the Housing Authority. This motion was seconded by Councilman Bissette and carried unanimously.

APPROVAL OF SIGN PERMIT - 645 PATTON AVENUE - MILL CREEK COMPANY

6. Consideration was given to the approval of a sign permit to install a freestanding sign at 645 Patton Avenue.

Mayor McDevitt said a request has been made to erect a freestanding sign at 645 Patton Avenue at Westgate-Hilton Inn ramp to advertise Mill Creek Company. Pursuant to the Zoning Ordinance the sign permit requires approval of Council in that it will be situated closer than 600 feet from a limited access highway.

Verl Emrick, Director of Planning, said the sign will consist of a total of 364 square feet, double-faced, 40 feet tall. He said the sign would have external illumination. He said the sign is in compliance with the Sign Ordinance.

Mr. John Buckner, President of Mill Creek Company, spoke in support of approval of the sign permit stating it was difficult for travelers to see their location. He said this sign would be closer to the road.

Upon inquiry of Councilwoman Price, Mr. Emrick said he did not think the sign would add to the existing congestion in this area.

Vice-Mayor Bratton moved to approve the sign permit for Mill Creek Company at 645 Patton Avenue. This motion was seconded by Councilman Myers and carried unanimously.

RESOLUTION NO. 84-45 - RESOLUTION TO ELECT A TAX SHELTER OF EMPLOYERS' CONTRIBUTIONS PAYABLE AS MEMBERS OF THE LAW ENFORCEMENT OFFICERS' RETIREMENT SYSTEM OF THE STATE OF NORTH CAROLINA

7. Consideration was given to a resolution to elect a tax shelter of employees' contributions payable as members of the Law Enforcement Officers' Retirement System of the State of North Carolina.

After discussion, Mayor McDevitt closed the public hearing at 4:35 p.m.

Councilwoman Price moved to accept the recommendation of the Planning and Zoning Commission to deny the rezoning request. This motion was seconded by Councilman Bissette and carried unanimously.

CONTINUATION OF PUBLIC HEARING - REZONING PROPERTY LOCATED ON EMMA ROAD

ORDINANCE NO. 1436 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED. (PROPERTY LOCATED ON EMMA ROAD)

3. A public hearing relative to rezoning property located on Emma Road was continued.

Mayor McDevitt said this public hearing was continued from the February 28, 1984 meeting.

Verl Emrick, Director of Planning, said the petitioner, Mr. Fowler, has requested the rezoning to allow placement of a single mobile home on his property. He said this rezoning would also make an adjoining mobile home park in conformance with the Zoning Ordinance.

Mayor McDevitt closed the public hearing at 4:40 p.m.

Councilwoman Price moved for the adoption of Ordinance No. 1436. This motion was seconded by Councilman Myers.

On a roll call vote of 6-0, Ordinance No. 1436 passed on first reading.

ORDINANCE NO. 1433 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED. (PROPERTY LOCATED ON PEARSON BRIDGE ROAD)

4. Consideration was given to the third reading of Ordinance No. 1433, an ordinance amending Ordinance No. 322, known as "An ordinance providing for the zoning of the City of Asheville," as amended. (Property located on Pearson Bridge Road.)

Mayor McDevitt said this ordinance was previously read on first and second reading and would not be reread in its entirety unless there was a specific request to do so.

On a roll call vote of 6-0, Ordinance No. 1433 passed on third and final reading.

Complete text of Ordinance No. 14-33 will be found in Ordinance Book No. 10 at page 114.

Councilwoman Price requested that the resolution be approved contingent upon final approval of the group development plan by City Council.

Mr. Jan Weigman spoke in support of approval of the resolution stating that the request and approval to the North Carolina Housing Finance Agency should not be contingent upon approval of the plans of the project since Council will approve the plans under the Group Development approval process.

Upon inquiry of Mayor McDevitt, Verl Emrick, Director of Planning, said modifying the resolution to be contingent upon final approval of the group development plan by City Council would not adversely affect the application with the North Carolina Housing Finance Agency.

Councilwoman Frank moved for the adoption of Resolution No. 84-47 contingent upon final approval of the group development plan for the project by City Council. This motion was seconded by Councilwoman Price and carried unanimously.

Complete text of Resolution No. 84-47 will be found in Resolution Book No. 14 at page 288.

RESOLUTION NO. 84-48 - RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACTUAL AGREEMENT WITH HARRY J. AND STELLA A. PAPPAS DOING-BUSINESS-AS PAPPAS TELECASTING OF THE CAROLINAS (WHNS-TV) TO LEASE SPACE FROM THE CITY OF ASHEVILLE AT THE CITY'S WHITE FAWN RADIO TOWER FOR THE PURPOSE OF RECEIVING AND TRANSMITTING TELEVISION SIGNALS IN AND AROUND THE ASHEVILLE/BUNCOMBE COUNTY AREA

10. Consideration was given to a resolution authorizing the Mayor to enter into a contractual agreement with Harry J. and Stella A. Pappas doing-business-as Pappas Telecasting of the Carolinas (WHNS-TV) to lease space from the City of Asheville at the City's White Fawn radio tower for the purpose of receiving and transmitting television signals in and around the Asheville/Buncombe County area.

Mayor McDevitt said members of Council were furnished copies of the resolution and the contract and it would not be read in its entirety.

Corporation Counsel Slawter said this particular item was discussed during the pre-council meeting and it was the consensus of Council to prepare a standard uniform lease for leases of this nature with possible additions and amendments to the particular leases.

Councilman Bissette moved for the adoption of Resolution No. 83-48 to authorize the Mayor to enter into a lease in a standard form to be worked out by the Corporation Counsel with Pappas Telecasting on the same terms as encompassed in the lease which was provided to City Council with certain revisions relating to the liability of the lessee in certain instances. This motion was seconded by Councilwoman Price and carried unanimously.

Complete text of Resolution No. 84-48 will be found in Resolution Book No. 14 at page 289.

Mayor McDevitt said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Corporation Counsel Slawter said the resolution should include the date of January 31, 1984 as the effective date.

Upon motion of Councilwoman Frank, seconded by Councilwoman Price, Resolution No. 84-45 was unanimously adopted.

Complete text of Resolution No. 84-45 will be found in Resolution Book No. 14 at page 286.

RESOLUTION NO. 84-46 - RESOLUTION AUTHORIZING THE MAYOR ON BEHALF OF THE CITY OF ASHEVILLE TO EXECUTE A RIGHT-OF-WAY AGREEMENT BY AND BETWEEN THE CITY OF ASHEVILLE AND THE NORTH CAROLINA DEPARTMENT OF TRANSPORATION (PROPERTY LOCATED ON PINNER ROAD)

8. Consideration was given to a resolution authorizing the Mayor on behalf of the City of Asheville to execute a right-of-way agreement by and between the City of Asheville and the North Carolina Department of Transporation (property on Pinner Road).

Mayor McDevitt said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Mayor McDevitt said the North Carolina Department of Transportation desires to pave SR 3496 and has requested a right-of-way across property owned by the City of Asheville on Pinner Road.

Upon motion of Vice-Mayor Bratton, seconded by Councilwoman Frank, Resolution No. 84-46 was unanimously adopted.

Complete text of Resolution No. 84-46 will be found in Resolution Book No. 14 at page 287.

RESOLUTION NO. 84-47 - RESOLUTION REQUESTING AND APPROVING THE PARTICIPATION OF THE NORTH CAROLINA HOUSING FINANCE AGENCY IN THE FINANCING OF A HOUSING PROJECT TO BE LOCATED IN THE CITY OF ASHEVILLE, NORTH CAROLINA

9. Consideration was given to a resolution requesting and approving the participation of the North Carolina Housing Finance Agency in the financing of a Housing Project to be located in the City of Asheville, North Carolina.

The City Manager said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Mayor McDevitt said this resolution will request and approve a proposed 22-unit apartment facility to be located on Fairview Road and Ridge Avenue in Oakley by the North Carolina Housing Finance Agency.

Councilman Bissette requested that he be excused from discussion and vote on the issue in that his firm represents the developer of the proposed project.

Councilwoman Price moved to excuse Councilman Bissette from voting or discussing the issue. This motion was seconded by Councilwoman Frank and carried unanimously.

Upon motion of Councilwoman Frank, seconded by Councilman Myers, Resolution No. 84-51 was unanimously adopted.

Complete text of Resolution No. 84-51 will be found in Resolution Book No. 14 at page 292.

RESOLUTION NO. 84-52 - RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN A CONTRACT FOR CLAIMS ADMINISTRATION SERVICE FOR THE WORKERS' COMPENSATION PROGRAM OF THE CITY OF ASHEVILLE

14. Consideration was given to a resolution authorizing the City Manager to sign a contract for claims administration service for the Workers' Compensation Program for the City of Asheville.

Mayor McDevitt said members of Council were furnished copies of the resolution and it would not be read in its entirety.

This resolution will authorize the City Manager to sign a contract for third-party Workers' Compensation administrative services with Gallagher-Bassett Insurance Service.

Upon motion of Councilman Bissette, seconded by Councilwoman Price, Resolution No. 84-52 was unanimously adopted.

Complete text of Resolution No. 84-52 will be found in Resolution Book No. 14 at page 293.

RESOLUTION NO. 84-__ - RESOLUTION TO CAUSE DEMOLITION OF HOUSE LOCATED AT 22 NORMANDY ROAD

15. Consideration was given to a resolution to cause demolition of house located at 22 Normandy Road.

Mayor McDevitt said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Max Cogburn, Attorney, representing the owners of 22 Normandy Road, Mrs. Fletcher and Mrs. Gage, requested Council to give the property owners at least six weeks to complete the repairs at 22 Normandy Road. He said repairs on the dwelling are sixty percent (60%) complete. He said the property owners and the construction company working on the dwelling are in a dispute, and Stewart Construction Company has been released from working on the dwelling.

Mr. Cogburn said he had been told by the property owners that they could receive financial assistance from Mr. Charles Harrell.

After discussion, Councilman Myers said he felt the success of completing the repairs at 22 Normandy Road depends on financing of the repairs being in place. He suggested that Council allow Mr. Cogburn two weeks to work out a financing plan for the repairs and to report this information to City Council.

RESOLUTION NO. 84-49 - RESOLUTION AUTHORIZING THE CITY MANAGER OF THE CITY OF ASHEVILLE TO SIGN A CONTRACT WITH INTERNATIONAL BUSINESS MACHINES CORPORATION, A NEW YORK CORPORATION, FOR THE PURPOSE OF LEASING SPACE FROM THE CITY OF ASHEVILLE ON ITS RADIO TRANSMITTER SYSTEM

11. Consideration was given to a resolution authorizing the City Manager of the City of Asheville to sign a contract with International Business Machines Corporation, a New York Corporation, for the purpose of leasing space from the City of Asheville on its radio transmitter system.

Mayor McDevitt said members of Council were furnished copies of the resolution and contract and it would not be read in its entirety.

Councilman Bissette moved for the adoption of Resolution No. 84-49 to authorize the Mayor to enter into a lease in standard form to be worked out by the Corporation Counsel with IBM on the same terms encompassed in the IBM lease which was provided to Council with certain revisions relating to the termination provision and giving the City the right to terminate that lease on the same basis that IBM has the right to terminate the lease. This motion was seconded by Councilwoman Price and carried unanimously.

Complete text of Resolution No. 84-49 will be found in Resolution Book No. 14 at page 290.

RESOLUTION NO. 84-50 - RESOLUTION AUTHORIZING THE MAYOR TO SIGN A CONTRACT FOR LOSS-PREVENTION SERVICES WITH POINSETT SELF-INSURANCE SALES AND SERVICE, INC., A SUBSIDIARY OF POINSETT FEDERAL SAVINGS AND LOAN ASSOCIATION

12. Consideration was given to a resolution authorizing the Mayor to sign a contract for loss-prevention services with Poinsett Self-Insurance Sales and Service, Inc., a subsidiary of Poinsett Federal Savings and Loan Association.

Mayor McDevitt said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilwoman Price, seconded by Councilman Myers, Resolution No. 84-50 was unanimously adopted.

Complete text of Resolution No. 84-50 will be found in Resolution Book No. 14 at page 291.

RESOLUTION NO. 84-51 - RESOLUTION AUTHORIZING THE FINANCE DIRECTOR TO EXECUTE AN AGREEMENT FOR LEASE/PURCHASE FINANCE FOR A 1983 FORD/AMERICAN LA FRANCE FIRE TRUCK

13. Consideration was given to a resolution authorizing the Finance Director to execute an agreement for lease/purchase finance for a 1983 Ford/American La France Fire Truck.

Mayor McDevitt said members of Council were furnished copies of the resolution and it would not be read in its entirety.

This resolution will authorize the Finance Director to execute a lease/purchase agreement with Southern National Leasing Corporation for a quarterly lease/purchase contract for a 1983 Ford/American La France Fire Truck.

SCHEDULING PUBLIC HEARING - DESIGNATING BUILDING AND PROPERTY KNOWN AS "CEDAR CREST" LOCATED AT 674 BILTMORE AVENUE AS HISTORIC PROPERTY

17. Consideration was given to a motion scheduling a public hearing relative to the adoption of an ordinance designating a building and property known as "Cedar Crest" located at 674 Biltmore Avenue in Buncombe County as historic property for March 27, 1984.

Councilwoman Frank moved to schedule a public hearing for March 27, 1984 to consider an ordinance designating "Cedar Crest" located at 674 Biltmore Avenue as historic property. This motion was seconded by Councilman Myers and carried unanimously.

RESOLUTION NO. 84-54 - RESOLUTION ENDORSING THE MASTER PLAN FOR THE WATER DISTRIBUTION SYSTEM IMPROVEMENTS

18. Consideration was given to a resolution endorsing the Asheville-Buncombe Water Authority Master Plan for Water Distribution System Improvements.

Mayor McDevitt said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilwoman Frank, seconded by Councilman Myers, Resolution No. 84-54 was unanimously adopted.

Complete text of Resolution No. 84-54 will be found in Resolution Book No. 14 at page 295.

RESOLUTION NO. 84-55 - RESOLUTION AUTHORIZING THE MAYOR ON BEHALF OF THE CITY OF ASHEVILLE TO EXECUTE AN AGREEMENT BY AND BETWEEN THE CITY OF ASHEVILLE AND THE COUNTY OF BUNCOMBE PROVIDING FOR DISTRIBUTION TO THE COUNTY OF ITS PRO-RATA SHARE OF PAYMENTS MADE TO THE CITY BY THE DEVELOPER OF THE WALL STREET PROJECT

19. Consideration was given to a resolution authorizing the Mayor on behalf of the City of Asheville to execute an agreement with the County of Buncombe providing for the distribution of payments to the County from the payments which the City receives from Developers of the Wall Street project.

Mayor McDevitt said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Bissette, seconded by Councilwoman Price, Resolution No. 84-55 was unanimously adopted.

Complete text of Resolution No. 84-55 will be found in Resolution Book No. 14 at page 296.

RESOLUTION NO. 84-56 - RESOLUTION ACCEPTING THE GRANT OF A PRESERVATION EASEMENT ON THE YMI CULTURAL CENTER BUILDING FROM THE YMI CULTURAL CENTER, INC.

20. Consideration was given to a resolution accepting the grant of a preservation easement on the YMI Cultural Center Building from the YMI Cultural Center, Inc.

Mr. Moore, Attorney for Stewart Construction Company, said he is in the process of filing civil action for a breach of contract relative to the repairs being made at 22 Normandy Road. He said it was his understanding that the only building permit issued for the repairs is to Stewart Construction Company. He said under an agreement with the City of Asheville and the owners of 22 Normandy Road, he is obligated to demolish the building at 22 Normandy Road.

Lem Moore, Director of Inspections, said if work is to be permitted to continue at 22 Normandy Road it would be necessary for Stewart Construction Company to cancel their building permit and a new permit obtained. He gave a current status report of the repairs made at 22 Normandy Road. He said the repairs are fifty to sixty percent (50-60%) complete. However, due to these repairs taking over six and one-half years, his department's credibility is in jeopardy.

Corporation Counsel Slawter said it was his recollection that the agreement entered into by the City of Asheville, the property owners at 22 Normandy Road, and Stewart Construction Company, stated that completion of repairs would be by July 1, 1983 or Stewart Construction Company would demolish the dwelling. He suggested that to assure completion of the repairs at 22 Normandy Road the City might consider requiring a performance bond from the property owners in question before Council authorizes repairs to continue.

After discusssion, Councilman Myers moved to table action on the resolution for two weeks, instructing Mr. Cogburn, Attorney for the property owners at 22 Normandy Road to report to Council with evidence of financing for the completion of the repairs at 22 Normandy Road and to present to Council a contract with a contractor capable of finishing the repairs. This motion was seconded by Vice-Mayor Bratton and carried unanimously.

Mr. Moore, Attorney for Stewart Construction Company said if Council wished to allow the repairs to continue, he would request that the City release Stewart Construction Company from any responsibility from the prior agreement entered into.

RESOLUTION NO. 84-53 - RESOLUTION AUTHORIZING THE MAYOR TO SIGN A CONTRACT FOR FIRE PROTECTION SERVICES WITH THE VETERANS ADMINISTRATION HOSPITAL AT OTEEN

16. Consideration was given to a resolution authorizing the Mayor to sign a contract for fire protection services with the Veterans Administration Hospital at Oteen.

Mayor McDevitt said members of Council were furnished copies of the resolution and it would not be read in its entirety.

The present agreement expires on March 31, 1984. The City staff and the VA staff have negotiated a new agreement for the period of April 1, 1984 through June 30, 1984.

Upon motion of Councilwoman Price, seconded by Councilman Bissette, Resolution No. 84-53 was unanimously adopted.

Complete text of Resolution No. 84-53 will be found in Resolution Book No. 14 at page 294.

APPROVAL OF SUBMITTAL OF ASHEVILLE-BUNCOMBE COUNTY ENERGY PROPOSAL TO THE NORTH CAROLINA ALTERNATIVE ENERGY CORPORATION

At the request of Mr. Jim Stokoe, with the Land of Sky Regional Council, Vice-Mayor Bratton moved to approve the submittal of a joint Asheville-Buncombe County Energy proposal to the North Carolina Alternative Energy Corporation (AEC) for assistance in an innovative financing field test. This motion was seconded by Councilwoman Price and carried unanimously.

CLAIMS - TOMMY STEWART (WATER) - ELLA HUDGENS (WATER) - DANIEL ELKINS (WATER)

The City Manager presented claims received from Tommy Stewart, Ella Hudgens, and Daniel Elkins.

Mayor McDevitt referred the claims to the Corporation Counsel for investigation and recommendations.

CONTINUATION OF MEETING - MARCH 14, 1984 AND MARCH 15, 1984

Councilman Myers moved to recess the Council meeting until 7:30 a.m., Wednesday, March 14, 1984 for an Executive Session to discuss the South Pack Square downtown development projects and to meet at 12:00 noon on March 15, 1984 to take action on resolutions relative to the downtown projects. This motion was seconded by Councilwoman Frank and carried unanimously.

* *

Continued Meeting - March 15, 1984

Present: Vice-Mayor Wilhelmina Bratton, Presiding; Councilwomen Mary Lloyd Frank and Norma T. Price; Councilmen Louis Bissette and Walter R. Boland; Corporation Counsel William F. Slawter; Acting City Manager William F. Wolcott, Jr.

Absent: Mayor Larry McDevitt and Councilman Gordon Myers.

Vice-Mayor Bratton said this was a continued meeting from the March 13, 1984 meeting to discuss resolutions pertaining to downtown development.

RESOLUTION NO. 84-59 - RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF ASHEVILLE TO EXECUTE A MEMORANDUM OF AGREEMENT WITH N.C. ARCHIVES AND HISTORY AND NATIONAL ADVISORY COUNCIL ON HISTORIC PRESERVATION

1. Consideration was given to a resolution authorizing the Mayor of the City of Asheville to execute a memorandum of agreement with N. C. Archives and History and National Advisory Council on Historic Preservation.

The City Manager read the resolution.

Upon motion of Councilwoman Price, seconded by Councilwoman Frank, Resolution No. 84-59 was unanimously adopted.

Complete text of Resolution No. 84-59 will be found in Resolution Book No. 14 at page 300.

Mayor McDevitt said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Logan Delany, Director of Community Development, said the purpose of this easement is to allow Community Development funds to be used to clean and repair the facade of the building.

After discussion, Mayor McDevitt noted that the City would not acquire ownership but would have the right to enforce certain covenants for the maintenance of the facade for public interest.

Upon motion of Vice-Mayor Bratton, seconded by Councilwoman Frank, Resolution No. 84-56 was unanimously adopted.

Complete text of Resolution No. 84-56 will be found in Resolution Book No. 14 at page 297.

RESOLUTION NO. 84-57 - RESOLUTION NAMING PRICE WATERHOUSE AND COMPANY AS AUDITORS FOR THE FISCAL YEAR ENDING JUNE 30, 1984

21. Consideration was given to a resolution naming Price Waterhouse and Company as auditors for the fiscal year ending June 30, 1984.

Mayor McDevitt said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Myers, seconded by Councilman Bissette, Resolution No. 84-57 was unanimously adopted.

Complete text of Resolution No. 84-57 will be found in Resolution Book No. 14 at page 298.

RESOLUTION NO. 84-58 - RESOLUTION AUTHORIZING THE CORPORATE COUNSEL OF THE CITY OF ASHEVILLE TO ENTER INTO AND PROCEED WITH ARBITRATION WITH APAC-CAROLINA, INC., ASHEVILLE DIVISION, PURSUANT TO THE TERMS AND CONDITIONS OF CONTRACT NUMBER E. 205.82 BY AND BETWEEN THE CITY OF ASHEVILLE AND APAC-CAROLINA, INC., ASHEVILLE DIVISION

22. Consideration was given to a resolution authorizing the Corporate Counsel of the City of Asheville to enter into and proceed with arbitration with APAC-Carolina, Inc., Asheville Division, pursuant to the terms and conditions of Contract Number E. 205.82 by and between the City of Asheville and APAC-Carolina, Inc., Asheville Division.

Mayor McDevitt said members of Council were furnished copies of the resolution and it would not be read in its entirety. He said this involves streets in the Patton/College/Pack Square area. He said the City of Asheville intends to get the streets repaired in this area.

Upon motion of Councilwoman Frank, seconded by Councilwoman Price, Resolution No. 84-58 was unanimously adopted.

Complete text of Resolution No. 84-58 will be found in Resolution Book No. 14 at page 299.

Tuesday, March 20, 1984 - 4:00 p.m.

Regular Meeting

Present: Mayor Larry McDevitt, Presiding; Vice-Mayor Wilhelmina Bratton; Councilwomen Mary Lloyd Frank and Norma T. Price; Councilmen Gordon Myers, Walter R. Boland, and Louis Bissette; Corporation Counsel William F. Slawter; Acting City Manager William F. Wolcott, Jr.; Deputy City Clerk Carol Hensley.

Absent: None

INVOCATION

The invocation was given by Councilman Gordon Myers.

APPROVAL OF THE MINUTES

1. Approval of the minutes of the March 13, 1984 meeting.

Upon motion of Councilman Price, seconded by Councilman Boland, the minutes of the March 13, 1984 meeting were unanimously approved as submitted.

RESOLUTION NO. 84-61. - RESOLUTION HONORING THE UNIVERSITY OF NORTH CAROLINA AT ASHEVILLE'S WOMEN'S BASKETBALL TEAM, NATIONAL CHAMPIONS 1983-84

PROCLAMATION - "UNC-A WOMEN'S BASKETBALL DAY" - THURSDAY - MARCH 22, 1984

Mayor McDevitt read a Resolution honoring the University of North Carolina at Asheville's women's basketball team, national champions 1983-84.

The resolution was unanimously adopted.

Complete text of Resolution No. 84-61 will be found in Resolution Book No. 14 at page 302.

Mayor McDevitt recognized Helen Carroll, Head Coach for the UNC-A Women's Basketball Team.

Dr. Thomas Cochran, Assistant Vice-Chancellor for Academic Affairs at UNC-A, introduced the members of the UNC-A Women's Basketball Team.

Mayor McDevitt presented a copy of the resolution and proclamation to each member of the team.

ORDINANCE NO. 1436 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED. (PROPERTY LOCATED ON EMMA ROAD)

2. Consideration was given to the second reading of Ordinance No. 1436, an ordinance amending Ordinance No. 322, known as "an ordinance providing for the zoning of the City of Asheville," as amended. (Property located on Emma Road)

Mayor McDevitt said this ordinance was previously read on first reading and would not be reread in its entirety unless there was a specific request to do so.

RESOLUTION NO. 84-60 - RESOLUTION TO AUTHORIZE THE VICE-MAYOR TO SIGN ON BEHALF OF THE CITY OF ASHEVILLE A MEMORANDUM OF UNDERSTANDING WITH SCHNEIDER MINE, INC.

2. Consideration was given to a resolution to authorize the Vice-Mayor to sign on behalf of the City of Asheville a memorandum of understanding with Schneider Mine, Inc.

The City Manager read the resolution.

Upon motion of Councilman Bissette, seconded by Councilman Boland, Resolution No. 84-60 was unanimously adopted.

Complete text of Resolution No. 84-60 will be found in Resolution Book No. 14 at page 301.

ADJOURNMENT

Upon motion, the meeting adjourned.

Lee McDevitt
MAYOR

William F. Moseley
CITY CLERK

ADJOURNMENT INTO EXECUTIVE SESSION

Councilman Price moved that Council adjourn to Executive Session. This motion was seconded by Vice-Mayor Bratton and carried unanimously.

EXECUTIVE SESSION CONTINUED

A motion was made to continue the Executive Session until Thursday, March 22, 1984, at 12:00 p.m.

MAYOR

CITY CLERK

On a roll call vote of 7-0, Ordinance No. 1436 passed on second reading.

PROCLAMATION - "YOUTH INVOLVEMENT MONTH" - MARCH, 1984

Mayor McDevitt read a proclamation proclaiming March, 1984 as "Youth Involvement Month."

Mayor McDevitt presented the proclamation to Miles Thompson, Youth Council Coordinator with the Parks and Recreation Department.

Mr. Thompson outlined events planned for the month of March for "Youth Involvement Month." He said on March 28, 1984, the Asheville-Buncombe Youth Council members would be involved in City Government.

RALPH BISHOP - COMMENTS RELATIVE TO PACK MEMORIAL LIBRARY

Mr. Ralph Bishop again spoke relative to the sale/resale of the old Pack Memorial Library to the City of Asheville.

Mayor McDevitt explained to Mr. Bishop the procedure being used in the downtown development process relative to the old Pack Memorial Library.

JOHNNY BAXTER - PRESENTATION OF GUIDELINES RELATIVE TO HISTORIC PRESERVATION/ BUILDINGS

Mr. Johnny Baxter presented Mayor McDevitt with a booklet containing complete guidelines for historic buildings and preservation. He said he felt the guidelines would help members of Council in anything proposed for historic preservation in the downtown district.

MR. HORN - MR. WALKER - PRESENTATION OF PETITION - NAMING OF PINE STREET TO REV. MARTIN LUTHER KING, JR. DRIVE

Mr. Horn presented Council with a petition signed by residents of the City of Asheville requesting that Pine Street, from College Street/Town Mountain Road to Charlotte Street be renamed to Rev. Martin Luther King, Jr. Drive.

Upon inquiry of Councilman Frank, Mr. Horn said the residents would settle for "Martin Luther King Drive."

After discussion, Mayor McDevitt said Council would move as expeditiously as possible on considering the petition.

Verl Emrick, Director of Planning, said general statutes require a ten (10) day notification and notification to all property owners before renaming the street.

CLAIMS - WILLIAM THOMAS (WATER) - MAX GUFFEY (WATER) - KERRY FOX (STREETS) - N. APOSTOLOPOULAS (WATER) - ELLEN HATTAWAY (WATER)

The City Manager presented claims received from William Thomas, Max Guffey, Kerry Fox, N. Apostolopoulas, and Ellen Hattaway.

Mayor McDevitt referred the claims to the Corporation Counsel for investigation and recommendation.

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Jim Coman, staff person for the Historic Resources Commission, said the property has been on the real estate market for some time, and the dwelling is too large to be used for residential use. He said the designation of historic property would secure the property and provide tax benefits to the property owners.

Mayor McDevitt closed the public hearing at 4:10 p.m.

The City Manager said members of Council were furnished copies of the ordinance and it would not be read in its entirety.

Councilman Boland moved for the adoption of Ordinance No. 1437. This motion was seconded by Councilman Bissette.

On a roll call vote of 6-0, Ordinance No. 1437 passed on first reading.

ORDINANCE NO. 1436 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED (PROPERTY LOCATED ON EMMA ROAD)

3. Consideration of the third reading of Ordinance No. 1436, an ordinance amending Ordinance No. 322, known as "an ordinance providing for the zoning of the City of Asheville," as amended (property located on Emma Road).

Mayor McDevitt said this ordinance was previously read on first and second readings and would not be reread in its entirety, unless there was a specific request to do so.

On a roll call vote of 6-0, Ordinance No. 1436 passed on third and final reading.

Complete text of Ordinance No. 1436 will be found in Ordinance Book No. 10 at page ~~117~~ 119 .

ORDINANCE NO. 1438 - BUDGET ORDINANCE AMENDMENT TO PROVIDE FUNDS FOR A DEVELOPERS CONFERENCE

4. Consideration was given to a budget ordinance amendment to provide funds for a Developers' Conference.

Mayor McDevitt said members of Council were furnished copies of the ordinance, and it would not be read in its entirety.

Note: An appropriation of $500.00 is being transferred from the General Fund Contingency to City Council Budget to provide funds for the Developers' Conference.

Councilman Boland moved for the adoption of Ordinance No. 1438. This motion was seconded by Vice-Mayor Bratton.

On a roll call vote of 6-0, Ordinance No. 1438 passed on first and final reading.

Tuesday March 27, 1984 - 4:00 p.m.

Regular Meeting

Present: Mayor Larry McDevitt, Presiding; Vice-Mayor Wilhelmina Bratton; and Councilwoman Mary Lloyd Frank; Councilmen Gordon Myers, Walter R. Boland, and Louis Bissette; Corporation Counsel William F. Slawter; Acting City Manager William F. Wolcott, Jr.; Deputy City Clerk Carol Hensley.

Absent: Councilwoman Norma T. Price

INVOCATION

Councilwoman Frank introduced Rev. Meeks, Rector of St. Marys Episcopal Church, who gave the invocation.

APPROVAL OF THE MINUTES

1. Approval of the minutes of the March 20, 1984 meeting.

Corporation Counsel Slawter noted that the minutes should be amended to reflect his absence at the March 20, 1984 meeting.

Upon motion of Councilwoman Frank, seconded by Vice-Mayor Bratton, the minutes of the March 20, 1984 meeting were unanimously approved as amended.

PUBLIC HEARING - ORDINANCE DESIGNATING "CEDARCREST" - 674 BILTMORE AVENUE - AS HISTORIC PROPERTY

ORDINANCE NO. 1437 - AN ORDINANCE DESIGNATING BUILDING AND PROPERTY KNOWN AS "CEDARCREST", LOCATED AT 674 BILTMORE AVENUE IN BUNCOMBE COUNTY AS HISTORIC PROPERTY

2. A public hearing was held relative to the adoption of an ordinance designating a building and property known as "Cedarcrest", located at 674 Biltmore Avenue in Buncombe County, as historic property.

Mayor McDevitt opened the public hearing at 4:08 p.m.

Mayor McDevitt noted that at the regular meeting and public hearing held on Wednesday, August 10, 1983, the Historic Resources Commission of Asheville and Buncombe County voted unanimously to recommend to Asheville City Council the designation of "Cedarcrest", 674 Biltmore Avenue, Asheville, as local historic property.

The City Manager presented a notice to the public setting the date and time for the public hearing and the affidavit for publication.

Verl Emrick, Director of Planning, said a public hearing is required for the historic designation. He said this property is also known as the "Old Kenilworth Lodge".

Lem Moore, Director of Inspections, said the Division of Inspections is in no position to issue a building permit to anyone other than Stewart Construction Company until they have been released of their building permit. He said the dwelling would have to be brought up to the North Carolina State Building Code.

Councilman Myers moved to postpone action on the demolition for two weeks, with instructions to the property owners to submit a written report to Council in one week, relative to their successfulness in obtaining financial commitments and a contract to do the work. This motion was seconded by Councilman Bissette and carried unanimously.

RESOLUTION NO. 84-63 - RESOLUTION AUTHORIZING THE MAYOR ON BEHALF OF THE CITY OF ASHEVILLE TO EXECUTE AN AMENDMENT TO THE CONTRACT FOR THE HOUSING AUTHORITY OF THE CITY OF ASHEVILLE PROVIDING FOR THE PREPARATION AND IMPLEMENTATION OF A REDEVELOPMENT PLAN FOR THE WALL STREET AND SOUTH PACK SQUARE PROJECTS.

7. Consideration was given to a resolution authorizing the Mayor on behalf of the City of Asheville to execute an amendment to the contract for the Housing Authority of the City of Asheville, providing for the preparation and implementation of a redevelopment plan for the Wall Street and South Pack Square Projects.

Mayor McDevitt said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Mayor McDevitt said pursuant to Resolution No. 83-203, the Mayor executed a contract for the Housing Authority for the preparation and implementation of a redevelopment plan for the Wall Street Project and the South Pack Square Project. He said the cost for services by the Authority could not be determined at the time the contract was executed, and the contract provided that the cost of services to be provided by the Authority would be established by an amendment to the contract. He said the Authority has submitted a letter to the City, telling its cost estimate for provision of certain services for preparation of a redevelopment plan. He said the amendment provides that the City will pay the Authority an amount not th exceed $46,350.00.

Upon motion of Councilman Boland, seconded by Councilwoman Frank, Resolution No. 84-63 was unanimously adopted.

Complete text of Resolution No. 84-63 will be found in Resolution Book No. 14 at Page 304.

SCHEDULING PUBLIC HEARING - SITE PLAN FOR PROPOSED OAKLEY APARTMENTS TO BE LOCATED ON RIDGE AVENUE AND FAIRVIEW ROAD.

8. Councilman Myers moved to schedule a public hearing relative to the site plan of the proposed Oakley Apartment to be located on Ridge Avenue and Fairview Road for April 10, 1984. This motion was seconded by Councilwoman Frank and carried unanimously.

Complete text of Ordinance No. 1438 will be found in Ordinance Book No. 10 at page ~~121~~ 123 ℄.

Councilman Boland noted that the Developers' Conference would be held at UNC-A on April 26, 1984.

Ralph Bishop spoke in opposition to the adoption of the ordinance.

RESOLUTION NO. 84-62 - RESOLUTION AUTHORIZING APPROPRIATION FOR ECONOMIC DEVELOPMENT CONFERENCE.

5. Consideration was given to a resolution authorizing appropriation for the Economic Development Conference.

Mayor McDevitt said copies of this resolution were furnished to members of Council and it would not be read in its entirety.

Upon motion of Councilwoman Frank, seconded by Councilman Bissette, Resolution No. 84-62 was unanimously adopted.

Complete text of Resolution No. 84-62 will be found in Resolution Book 14 at page ~~309~~. 312 ℄.

DISCUSSION RELATIVE TO THE DEMOLITION OF 22 NORMANDY ROAD

6. Mayor McDevitt said at the Council Meeting of March 13, 1984, a discussion was held relative to directing the Director of Inspections and Demolitions to take all steps necessary to effectuate a demolition of 22 Normandy Road at the earliest possible date. He said action on this was postponed until March 27, 1984, giving the property owners additional time to submit further information.

Max Cogburn, Attorney for the property owners of 22 Normandy Road, said the financial commitment and contract to complete the repairs at 22 Normandy Road have not been completed. He said the property owners are still working on obtaining these documents. He said the property owners are in the process of selling property at 25 Normandy Road in order to have financial funds to make the repairs at 22 Normandy Road. He said he anticipated the sale of 25 Normandy Road to be complete within one week. He said Mr. Jones, a contractor, has agreed to complete the repairs at 22 Normandy Road for an overall amount of $30,000.00. He said the contract with the contractor is contingent upon the owner's receiving financial funds. He said the property owners have succeeded in bringing the dwelling within sixty percent (60%) completion and intend to spend additional funds to complete the repairs. He requested additional time of one week to complete the necessary arrangements for the repairs of the house.

Upon inquiry of Councilman Bissette, Mr. Jones, the proposed contractor, said he could start work immediately and have completion in six to eight weeks.

ANNOUNCEMENT OF INTERRUPTION OF WATER SERVICE - MEADOW ROAD AND PART OF McDOWELL STREET.

The City Manager announced that there would be an interruption of water service on Wednesday, Marcy 28, 1984, at 9:00 p.m. on Meadow Road and part of McDowell Street. He said this is for the purpose of installing two common 12" main line valves on Meadow Road. He said customers will experience low pressure and no water until work is completed. He said the water service should be restored by 3:00 a.m., Thurday.

SCHEDULING PUBLIC HEARING - RENAMING OF PINE STREET TO "MARTIN LUTHER KING DRIVE".

Councilwoman Frank moved to schedule a public hearing relative to the naming of Pine Street to "Martin Luther King Drive", for April 10, 1984. This motion was seconded by Councilman Boland and carried unanimously.

Mayor McDevitt requested that a letter be sent to Mr. Horn and Mr. Walker, petitioners, explaining that the City must follow State Statute in renaming the street.

JON WILFONG - PRICE WATERHOUSE

Mr. Jon Wilfong with the Price Waterhouse Company, appeared before Council, stating that he looked forward to working with the City in the auditing services for fiscal year ending June 30, 1984.

RALPH BISHOP - COMMENT RELATIVE TO PACK MEMORIAL LIBRARY

Ralph Bishop again spoke to Council relative to the Pack Memorial Library being included in the proposed downtown developments.

ADJOURNMENT

Mayor McDevitt adjourned the meeting at 4:55 p.m.

Lon McDevitt
MAYOR

William J. Holcomb
CITY CLERK

RESOLUTION NO. 84-64 - RESOLUTION AUTHORIZING THE MAYOR TO CONSENT TO THE DEMOLITION OF 59 TREMONT STREET.

9. Consideration was given to a resolution authorizing the Mayor to consent to the demolition of 59 Tremont Street.

Mayor McDevitt said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Note: This dwelling is owned by the Buncombe County Board of Tax Supervision. This resolution will authorize the Mayor to consent to the demolition of 59 Tremont Street. Demolition requires the consent of the City of Asheville and the County of Buncombe. Several weeks ago the dwelling partially collapsed and poses a serious safety and health hazard.

Upon motion of Councilwoman Frank, seconded by Councilman Boland, Resolution No. 84-64 was unanimously adopted.

Complete text of Resolution No. 84-64 will be found in Resolution Book No. 14 at Page ~~305.~~ 314

RESOLUTION NO. 84-65 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT WITH PRICE WATERHOUSE FOR AUDITING SERVICES FOR THE FISCAL YEAR ENDING JUNE 30, 1984.

10. Consideration was given to a resolution authorizing the Mayor to execute an agreement with Price Waterhouse for auditing services for the fiscal year ending June 30, 1984.

Mayor McDevitt said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Note: N. C. General Statutes requires that local governments of North Carolina submit an annual audit to the Local Government Commission. The City of Asheville requested proposals for auditing services from various accounting firms. A committee of the City Council and City staff members have examined the proposal submitted and made recommendations. Price Waterhouse has been appointed to perform auditing services for the City of Asheville for the fiscal year ending June 30, 1984. The funding for auditing services to be performed by Price Waterhouse shall be included in the City's operating budget. Said services shall be performed at a fee of $27,000.00.

Upon motion of Councilman Myers, seconded by Councilwoman Frank, Resolution No. 84-65 was unanimously adopted.

Complete text of Resolution No. 84-65 will be found in Resolution Book No. 14 at Page ~~306.~~ 315

CLAIMS - ROBERT CANSLER (INSPECTIONS) - LAWRENCE RICE (SEWER)

The City Manager presented claims received from Robert Cansler and Lawrence Rice.

Mayor McDevitt referred the claims to the Corporation Counsel for investigation and recommendation.

PRESENTATION OF "CERTIFICATES OF RECOGNITION OF EXTRAORDINARY PERSONAL ACTION" - FIREMAN

2. Mayor McDevitt said Company Commander Jack H. Taylor, Company Commander Ted M. Stroup, Firefighters Phillip A. Meese and James E. Fox were recently involved in saving a life during a major fire. He said Chief Ball from the Asheville Fire Department had given commendation letters to these firemen for their extraordinary efforts.

Mayor McDevitt presented each of the firemen a "Certificate of Recognition of Extraordinary Personal Action" from the Red Cross.

ORDINANCE NO. 1437 - AN ORDINANCE DESIGNATING A BUILDING AND PROPERTY KNOWN AS "CEDAR CREST" LOCATED AT 674 BILTMORE AVENUE IN BUNCOMBE COUNTY AS HISTORIC PROPERTY

3. Consideration was given to the second reading of Ordinance No. 1437, an ordinance designating a building and property known as "Cedar Crest" located at 674 Biltmore Avenue in Buncombe County as historic property.

Mayor McDevitt said this ordinance was previously read on first reading and would not be reread in its entirety unless there was a specific request to do so.

On a roll call vote of 6-0, Ordinance No. 1437 passed on second reading.

REPORT RELATIVE TO DEMOLITION OF 22 NORMANDY ROAD

The following written report was presented to members of Council:

April 3, 1984

Mayor and Members of the City Council
City Building
Asheville, North Carolina

Re: Mrs. Lottie Jean Fletcher and
Mrs. Elizabeth Gage
22 Normandy Road
Asheville, North Carolina

Dear Mr. Mayor and Members of the City Council:

At your meeting last Tuesday, March 27, 1984, you allowed Mrs. Fletcher and Mrs. Gage a delay of two (2) weeks, that is, to April 10, 1984, for consideration of the resolution to cause demolition of the house located at 22 Normandy Road, Asheville, North Carolina. A condition of this delay was that they report to you on this date in writing as to the progress, if any, made in obtaining the execution of a written contract for the necessary repair work on the house at 22 Normandy Road and the obtaining of the necessary funds to pay for the performance of that work.

Tuesday, April 3, 1984 - 4:00 p.m.

Regular Meeting

Present: Mayor Larry McDevitt, Presiding; Vice-Mayor Wilhelmina Bratton; Councilwomen Mary Lloyd Frank and Norma T. Price; Councilmen Walter R. Boland and Louis Bissette; Corporation Counsel William F. Slawter; Acting City Manager William F. Wolcott, Jr.; Deputy City Clerk Carol Hensley.

Absent: Councilman Gordon Myers.

INVOCATION

The invocation was given by Councilman Boland.

APPROVAL OF THE MINUTES

1. Approval of the minutes of the March 27, 1984 meeting.

Upon motion of Councilman Boland, seconded by Councilwoman Frank, the minutes of the March 27, 1984 meeting were unanimously approved as submitted.

PROCLAMATION - "SCHOOL LIBRARY MEDIA DAY" - APRIL 11, 1984

Mayor McDevitt read a proclamation proclaiming April 11, 1984 as "School Library Media Day."

Mayor McDevitt presented the proclamation to Carolyn Andrade.

RESOLUTION NO. 84-66 - RESOLUTION COMMENDING ASHEVILLE HIGH SCHOOL ON THEIR PARTICIPATION IN THE INTERNATIONAL EXCHANGE PROGRAM AND RECOGNIZING THE FOREIGN EXCHANGE STUDENTS FROM JAPAN, NORWAY, TURKEY, IRELAND, FINLAND, AND GERMANY THAT ARE PARTICIPATING IN THE PROGRAM

Consideration was given to a resolution commending Asheville High School on their participation in the International Exchange Program and recognizing the Foreign Exchange Students from Japan, Norway, Turkey, Ireland, Finland, and Germany that are participating in the program.

Mayor McDevitt read the resolution.

Upon motion of Councilwoman Price, seconded by Vice-Mayor Bratton, Resolution No. 84-66 was unanimously adopted.

Complete text of Resolution No. 84-66 will be found in Resolution Book No. 14 at page ~~307~~. 316

Mayor McDevitt presented a copy of the resolution to Mr. O. L. Sherrill, Principal of Asheville High School.

Mayor McDevitt also presented individual welcome letters to all students in attendance.

Mayor McDevitt noted that this item was discussed during the pre-council work session. He said there was a technical deadline for taking action on the bids of April 6, 1984.

Mayor McDevitt outlined the details of the bid proposals.

Councilman Boland said in his opinion, Council should develop some criteria for receiving information about contractors on major contracts, such as the amount of business done by the company in past years and a break down of their track record. He said every avenue should be taken to protect the City on major contracts.

Councilman Bissette expressed concern relative to voting on the bid proposals without further investigation. He said his major concern is the great disparity in the bid amounts and the great disparity in the engineering cost estimates.

After discussion, Mayor McDevitt read the resolution and presented the bid tabulations for members of Council.

Mayor McDevitt said he was also concerned about the disparity in bid amounts and the engineering costs.

Councilwoman Price moved for the adoption of Resolution No. 84-67. This motion was seconded by Councilwoman Frank and carried on a voice vote of 4-2, with Vice-Mayor Bratton and Mayor McDevitt voting "no."

Complete text of Resolution No. 84-67 will be found in Resolution Book No. 14 at page ~~300~~. 301

CATHY GUTHRIE - INVITATION TO UNC-A NUCLEAR FAIR

Cathy Guthrie, with the UNC-A Student Government, invited all members of Council to a "Nuclear Fair" on Friday, April 6, 1984 at 12 Noon until 4:00 p.m. She said this was on open broad-based educational program.

Mayor McDevitt thanked Cathy Guthrie for the personal invitation to each member of Council.

RALPH BISHOP - COMMENTS RELATIVE TO THE ECONOMIC DEVELOPMENT CONFERENCE

Ralph Bishop spoke in opposition to the City of Asheville spending $500 for an Economic Development Conference.

Councilman Boland responded to Mr. Bishop stating that the conference should not cost $500. He said this conference would allow developers and City staff to develop a dialogue of problems with City ordinances or departments relating to development. He said the major cost in the conference would be the printing of brochures, stamps, stationery, and the returning of application forms for the conference.

You will recall that Mr. William F. Jones, Jr. appeared at your meeting last week, presented a portion of the terms upon which he would contract to do the work and was to provide the remainder of the contractual information in order that a contract could be drawn and executed. I have not received that information and, therefore, must report that no contract for work on this house has been signed at this time.

You will also recall that at your meeting last week it was stated that Mrs. Elizabeth Gage had entered into a contract to sell certain real property which she owns in the City of Asheville to obtain funds to pay for this repair work. That contract has been signed with Mr. John Steven Walker, providing for a closing on May 15, 1984. I am attaching a copy of this contract for your information.

Mrs. Gage is undertaking to contact Mr. Jones and I hope to be able to report next week that a contract has been made.

Sincerely yours,

Max O. Cogburn

MOC:cc

SCHEDULING PUBLIC HEARING - UDAG APPLICATION - (WALL STREET PROJECT)

Councilwoman Price moved to schedule a public hearing for April 17, 1984 to consider a resolution authorizing the resubmittal of a UDAG application for the Wall Street project. This motion was seconded by Vice-Mayor Bratton and carried unanimously.

Mayor McDevitt said the reason for the resubmittal is that the two projects, Wall Street and South Pack Square, were submitted in one UDAG application. He said the South Pack Square project received approval, and now it is necessary to resubmit a separate application for the Wall Street project.

CLAIMS - OSBORNE HART (WATER) - FRANK KING (WATER) - GUY ROBERTS (WATER) - RICHARD RAYMER (SANITATION)

The City Manager presented claims received from Osborne Hart, Frank King, Guy Roberts, and Richard Raymer.

Mayor McDevitt referred the claims to the Corporation Counsel for investigation and recommendation.

RESOLUTION NO. 84-67 - RESOLUTION AUTHORIZING THE MAYOR TO SIGN ON BEHALF OF THE CITY OF ASHEVILLE A CONTRACT WITH LEONARD SMITH ROOFING AND SHEET METAL, INC., FOR THE PROJECT KNOWN AS ASHEVILLE CIVIC CENTER ROOF REPAIRS

Consideration was given to a resolution authorizing the Mayor to sign on behalf of the City of Asheville a contract with Leonard Smith Roofing and Sheet Metal, Inc. for the project known as the Asheville Civic Center Roof Repairs.

Tuesday, April 10, 1984 - 4:00 p.m.

Regular Meeting

Present: Mayor Larry McDevitt, Presiding; Vice-Mayor Wilhelmina Bratton; Councilwomen Mary Lloyd Frank and Norma T. Price; Councilmen Gordon Myers, Walter R. Boland, and Louis Bissette; Corporation Counsel William F. Slawter; Acting City Manager William F. Wolcott, Jr.; Deputy City Clerk Carol Hensley.

Absent: None

INVOCATION

The invocation was given by Councilman Bissette.

APPROVAL OF THE MINUTES

1. Approval of the minutes of the April 3, 1984 meeting.

Upon motion of Councilwoman Price, seconded by Councilman Boland, the minutes of the April 3, 1984 meeting were unanimously approved as amended.

PUBLIC HEARING - CLOSING UNNAMED ALLEY - HILLIARD AVENUE TO SAWYER STREET

RESOLUTION NO. 84-69 - RESOLUTION TO CLOSE AN UNNAMED PUBLIC ALLEY JOINING HILLIARD AVENUE TO SAWYER STREET IN THE CITY OF ASHEVILLE, NORTH CAROLINA

2. A public hearing was held relative to closing an unnamed public alley joining Hilliard Avenue to Sawyer Street in the City of Asheville, North Carolina.

Mayor McDevitt opened the public hearing at 4:16 p.m.

The City Manager presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Mr. Vincent Childress, Attorney for the petitioners, spoke in support of the closing of the public alley. He said no individual owning property in the vicinity of the public alley would be deprived of ingress or egress to their property by the closing of the alley. He said, in fact, the closing of the alley would be a benefit to the public.

Upon inquiry of Councilman Bissette, Mr. Emrick said no opposition had been received relative to the closing of the alley.

Mayor McDevitt closed the public hearing at 4:18 p.m.

Mayor McDevitt said members of Council were previously furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilwoman Frank, seconded by Councilman Bissette, Resolution No. 84-69 was unanimously adopted.

Complete text of Resolution No. 84-69 will be found in Resolution Book No. 14 at page ~~310~~. 311

CHARLES WILSON - PLASTEX SIGN COMPANY - COMMENTS RELATIVE TO CITY SELLING "HANDICAPPED SIGNS"

Mr. Charles Wilson, owner of Plastex Sign Company, told members of Council he did not think the City of Asheville should be selling "Handicapped Signs." He said the City sells them at a much lower cost than an individual sign company can sell the signs. He said the City Inspections Division is selling Handicap Signs for $4.00. He said this is unfair competition and the City should not be in competition with any business in the City of Asheville. He said he had previously brought this matter to the attention of the City Manager but, however, nothing has been done as of yet. He asked the City Council to see that the City cease and desist in selling the Handicapped Signs.

Lem Moore, Director of Inspections, said his office sells the Handicapped Signs in an effort to obtain compliance with statutory requirements for Handicapped Signs. He said the City purchases the signs from the North Carolina League of Municipalities.

Mayor McDevitt informed Mr. Wilson that Council would look into his request.

RECESS INTO EXECUTIVE SESSION

Councilwoman Price moved that Council recess into Executive Session. This motion was seconded by Vice-Mayor Bratton and carried unanimously.

RESOLUTION NO. 84-68 - RESOLUTION AUTHORIZING THE MAYOR TO SIGN AN AGREEMENT WITH THE ASHEVILLE-BUNCOMBE DEVELOPMENT CORPORATION COMMITTING CITY PROPERTY TO THE INCUBATOR FACILITY PROGRAM

Consideration was given to a resolution authorizing the Mayor to sign an agreement with the Asheville-Buncombe Development Corporation committing City property to the Incubator Facility Program.

Mayor McDevitt read the resolution.

Upon motion of Vice-Mayor Bratton, seconded by Councilman Boland, Resolution No. 84-68 was unanimously adopted.

Complete text of Resolution No. 84-68 will be found in Resolution Book No. 14 at page ~~309~~ 319.

ADJOURNMENT

Upon motion of Vice-Mayor Bratton, seconded by Councilwoman Price, the meeting adjourned.

Lem McDevitt
MAYOR

William F. Malcuit
CITY CLERK

Ordinance. After review and discussion, the Commission voted to recommend approval of the site plan to City Council subject to compliance with the Erosion Control Ordinance.

Mr. Emrick said the project would include 20 apartments in two buildings on 1.4 acres. He said the property was zoned R-3 Residential and is within the density level requirements. He said the project is in compliance with all regulations. He said water and sewer is available on site for the project.

Mayor McDevitt closed the public hearing at 4:29 p.m.

Councilman Bissette requested that he be excused from discussion and vote on the Oakley Apartment project due to a conflict of interest. He said he represents the architect for the project, Mr. Jan Wiegman.

Councilman Boland moved to excuse Councilman Bissette from discussion and vote on the Oakley Apartment project. This motion was seconded by Councilwoman Price and carried unanimously.

Councilwoman Price moved to approve the site plan of the proposed Oakley Apartments to be located on Ridge Avenue and Fairview Road subject to the Planning and Zoning Commission's recommendation. This motion was seconded by Councilman Boland and carried unanimously.

Councilwoman Frank was excused from the meeting at 4:30 p.m

ORDINANCE NO. 1437 - AN ORDINANCE DESIGNATING A BUILDING AND PROPERTY KNOWN AS "CEDAR CREST" LOCATED AT 674 BILTMORE AVENUE IN BUNCOMBE COUNTY AS HISTORIC PROPERTY

5. Consideration was given to the third reading of Ordinance No. 1437, an ordinance designating a building and property known as "Cedar Crest" located at 674 Biltmore Avenue in Buncombe County as Historic property.

Mayor McDevitt said this ordinance was previously read on first and second reading and would not be reread in its entirety unless there was a specific request to do so.

On a roll call vote of 6-0, Ordinance No. 1437 passed on third and final reading.

Complete text of Ordinance No. 1437 will be found in Ordinance Book No. 14 at page [illegible], [illegible], and [illegible]. 120, 121 and 122.

Councilwoman Price was excused from the meeting at 4:32 p.m.

BIDS - THREE (3) REFUSE COLLECTION VEHICLES

6. Consideration was given to bids received for three (3) refuse collection vehicles.

The City Manager said on March 23, 1984 sealed bids were received to furnish three (3) refuse collection vehicles. Four (4) bids were received. Recommendation to award the bid to Western Carolina Truck Center, Inc., for Alternate No.1 in the amount of $233,273.40.

PUBLIC HEARING - CHANGING THE NAME OF PINE STREET TO MARTIN LUTHER KING DRIVE

RESOLUTION NO. 84-70 - RESOLUTION CHANGING THE NAME OF A SECTION OF PINE STREET TO MARTIN LUTHER KING DRIVE

3. A public hearing was held relative to changing the name of Pine Street to Martin Luther King Drive.

Mayor McDevitt opened the public hearing at 4:20 p.m.

The City Manager presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said all property owners in the vicinity of Pine Street had been notified of Council's intent to change the name of the street to Martin Luther King Drive. He said the street was also posted in three prominent places. He said this would change that section of Pine Street extending southerly from College Street to South Charlotte Street to Martin Luther King Drive.

He said no objections had been received relative to the renaming of this street.

Mayor McDevitt closed the public hearing at 4:22 p.m.

The City Manager said members of Council were previously furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilwoman Frank, seconded by Councilwoman Price, Resolution No. 84-70 was unanimously adopted.

Complete text of Resolution No. 84-70 will be found in Resolution Book No. 14 at page ~~311~~. 321 PC

SCHEDULING PUBLIC HEARING - RENAMING SECTION OF PINE STREET TO TOWN MOUNTAIN ROAD

Councilwoman Price moved to schedule a public hearing relative to changing a section of Pine Street extending southerly from Town Mountain Road to Poplar Street be renamed to Town Mountain Road for May 8, 1984. This motion was seconded by Councilman Bissette and carried unanimously.

PUBLIC HEARING - SITE PLAN - OAKLEY APARTMENTS - RIDGE AVENUE AND FAIRVIEW ROAD

4. A public hearing was held relative to the site plan of the proposed Oakley Apartments to be located on Ridge Avenue and Fairview Road.

Mayor McDevitt opened the public hearing at 4:25 p.m.

The City Manager presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said the Asheville Planning and Zoning Commission at a meeting held March 7, 1984, reviewed the site plan of the proposed Okaley Apartments to be located on Ridge Avenue and Fairview Road. The site plan was prepared by Jan Wiegman, Architect, for Carolina Housing Developers of Oakley, Developers, in accordance with the Group Development Section of the Asheville Zoning

D. Resolution No. 84-74 - Resolution authorizing the Purchasing Director to sell a surplus 1953 Fire Truck to the Laurel Volunteer Fire Department.

HIGHLIGHTS: The Asheville Fire Chief and the Superintendent of Motor Transport have declared a 1953 Ford 500 G.P.M. fire pumper as surplus property for which the City has no further use. Notice of the sale of this truck was circulated to cities, towns, and counties in the Asheville area. The City received an offer to purchase this truck from the Laurel Volunteer Fire Department in the amount of $1,500.00. The Fire Chief and Motor Transport Superintendent recommend acceptance of this offer.

FISCAL IMPACT: Revenue of $1,500 to the General Fund.

Resolution Book No. 14, page ~~316~~. 316 ✗

E. Resolution No. 84-75 - Resolution providing that the Asheville City Council direct the Asheville Transit Authority to service the Sweeten Creek Road and Patton Avenue annexed areas on a limited, trial basis.

HIGHLIGHTS: The City of Asheville has annexed areas along Sweeten Creek Road, Mills Gap Road, Patton Avenue and Sand Hill Road. The City of Asheville has budgeted funds for transit service to the areas. This resolution will direct that the Asheville Transit Authority to provide transit service to the areas on a limited and trial basis from April 2, 1984 through June 30, 1984. A determination at the end of the trial period will be made as to whether the service shall continue.

Resolution Book No. 14, page ~~317~~. 317 ✗

F. Resolution No. 84-76 - Resolution authorizing the Mayor to sign on behalf of the City of Asheville a contract with Hobson Construction Company, Inc. for the project known as U.S. 19 & 23 Eight Inch Sewer Line.

HIGHLIGHTS: Hobson Construction Company is the lowest responsible bidder for the U.S. 19 & 23 Eight Inch Sewer Line Project. The project begins at a point on Highway U.S. 19 & 23 and runs parallel with U.S. 19 & 23 for a distance of 2343 l.f. and consists of eight inch truss pipe for a sewer line with six new manholes and all the necessary appurtenances according to plans and specificaitons issued by the City of Asheville. This is a portion of the newly annexed area. This will authorize the Mayor to sign a contract with Hobson Construction Company for said work and any change orders, within the amount budgeted for said work.

FISCAL IMPACT: This part of the annexation plan budgeted in Capital Construction 33 Fund.

Resolution Book No. 14, page ~~318~~. 318 ✗

Councilman Boland moved to approve the bid to Western Carolina Truck Center, Inc. for Alternate No. 1 in the amount of $233,273.40 for the three (3) refuse collection vehicles. This motion was seconded by Councilman Bissette and carried unanimously.

APPROVAL OF CONSENT AGENDA

Note: The following items are of a routine nature and they have been previously reviewed by the members of the City Council. Therefore, by unanimous vote to approve these items, the City Council may, pursuant to the procedures established in Ordinance No. 1008, adopt all of the items with one motion without the full reading and/or separate motion adopting each individual item. Upon the request of a citizen, a member of the City Council, and/or a member of the City staff, any single item scheduled for approval on the consent agenda may be considered separately.

A. Resolution No. 84-71 - Resolution appointing member to the Tourism Development Authority.

HIGHLIGHTS: This resolution will appoint Mrs. Katherine Shelton as a member of the Tourism Development Authority.

FISCAL IMPACT: None.

Resolution Book No. 14, page ~~312~~. 322

B. Resolution No. 84-72 - Resolution authorizing the Director of Management Services to execute on behalf of the City of Asheville a worker's compensation agreement with City Employee Oralene Simmons.

HIGHLIGHTS: This agreement is for compensation for disability providing for payment to Oralene Simmons permanent partial disability benefits resulting from an injury in an accident arising out of and during the course of her employment with the City.

FISCAL IMPACT: This settlement for permanent partial disability in the amount of $3,029.94 is currently budgeted in the Parks and Recreation Department budget.

Resolution Book No. 14, page ~~313~~. 323

C. Resolution No. 84-73 - Resolution authorizing the Purchasing Director to sell surplus Motor Vehicles at public auction.

HIGHLIGHTS: The Motor Transport Superintendent has declared nineteen motor vehicles as surplus property. This resolution will authorize the Purchasing Director to sell the surplus motor vehicles at the New Vehicle Maintenance Facility, South Charlotte Street, beginning at 10:00 a. m. on Saturday, April 28, 1984.

FISCAL IMPACT: Sale of surplus vehicles will generate expected revenue of $15,550.

Resolution Book No. 14, pages ~~314~~, and ~~315~~ 324 325

J. Motion scheduling a public hearing relative to the site plan of the proposed Turtle Creek Apartments - Phase II to be located on Hendersonville Road for April 24, 1984.

HIGHLIGHTS: The Asheville Planning and Zoning Commission at a meeting held April 4, 1984, reviewed the site plan of the proposed Turtle Creek Apartments - Phase II to be located on Hendersonville Road. The plan was prepared by LandDesign, Inc. for The Paragon Group, Developer, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of the site plan to City Council subject to the following items: (1) constructing streets to City Standards of 8" crushed stone base and 2" asphalt; and (2) compliance with Erosion Control Ordinance.

FISCAL IMPACT: None

Councilman Myers moved for the approval of the Consent Agenda. This motion was seconded by Councilman Boland and carried unanimously.

PROCLAMATION - "CLEAN-UP WEEK" - APRIL 8-14, 1984

Mayor McDevitt read of proclamation proclaiming the week of April 8-14, 1984 as "Clean-up Week."

CLAIMS - JIM PITTS (SEWER) - MRS. JAMES SMITH (WATER) - DAN SMITH (PARKS AND RECREATION) - HILDA WILKES (POLICE) - ART YOUNG (STREETS)

The City Manager presented claims received from Jim Pitts, Mrs. James Smith, Dan Smith, Hilda Wilkes, and Art Young.

LAWSUIT - THOMAS W. TWEED (AUTOMOBILE ACCIDENT - POLICE OFFICER)

The City Manager said the City was served with a summons on April 2, 1984 in connection with a lawsuit in which the City is a defendant involving Thomas W. Tweed relative to an automobile accident -- Police Officer alleged to have run a red light.

Mayor McDevitt referred the claims and lawsuit to the Corporation Counsel for investigation and recommendation.

QUALITY FORWARD - PETER WINSLOW - ENFORCEMENT OF SANITATION ORDINANCE

Peter Winslow with Quality Forward, urged City Council to hire an environmental control officer and begin enforcing a sanitation ordinance that has been on the books for more than five years. He said the ordinance was written in 1978 and has not been enforced. He said he had previously brought this to the attention of the City Manager and the Public Works Director; however, no action has been taken on the request for enforcement.

Mayor McDevitt said the City Council had discussed this request during a Council budget work session and the request is now being examined as far as budgetary concerns.

G. Motion scheduling a public hearing to consider a resolution authorizing submission of a final statement of Community Development Objectives and Projected Use of funds to the Department of Housing and Urban Development for Community Development Block Grant Entitlement Funds for 1984-85 for April 24, 1984.

HIGHLIGHTS: This public hearing is a requirement of the Department of Housing and Urban Development.

FISCAL IMPACT: Community Development Block Grant Funds Entitlement revenue for 1984-85 in the amount of $1,385,000.

H. Motion scheduling public hearing relative to rezoning property located on N. Louisiana Avenue for May 8, 1984.

HIGHLIGHTS: The Asheville Planning and Zoning Commisison at a meeting held April 4, 1984, considered the request of Mr. Allen Moss et al that Ward 6, Sheet 17, Lots 84, 86, 58, 57, 54, 55, and 56, be rezoned from R-3 Residential District to CH Commercial Highway District. After review and discussion, the Commission voted to recommend to City Council that this request be denied. The petitioners have appealed the decision of the Planning and Zoning Commission requiring Council to hold a public hearing on said request.

FISCAL IMPACT: None

I. Motion scheduling a public hearing relative to the site plan of the proposed Mosswood Mobile Home Park to be located on N. Louisiana Avenue for April 24, 1984.

HIGHLIGHTS: The Asheville Planning and Zoning Commisison at a meeting held April 4, 1984, reviewed the site plan of the proposed Mosswood Mobile Home Park to be located on N. Louisiana Avenue. The site plan was prepared by Ray Anders, R.L.S., for Mr. Allen Moss, Developer, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commisison voted to recommend approval of the site plan to City Council subject to the following items: (1) 11 lots (marked on plat) being brought into size conformance; (2) installation of two (2) fire hydrants; (3) compliance with Erosion Control Ordinance; and (4) obtaining a letter from the Buncombe County Board of Education stating that they have facilities adequate to service the project.

FISCAL IMPACT: None

Tuesday, April 17, 1984 - 4:00 p.m.

Regular Meeting

Present: Mayor Larry McDevitt, Presiding; Vice-Mayor Wilhelmina Bratton; and Councilwomen Mary Lloyd Frank and Norma T. Price; Councilmen Gordon Myers and Walter R. Boland; Corporation Counsel William P. Slawter; Acting City Manager William F. Wolcott, Jr.; Deputy City Clerk Carol Hensley.

Absent: Councilman Louis Bissette

INVOCATION

The invocation was given by Councilwoman Norma T. Price.

APPROVAL OF THE MINUTES

1. Approval of the minutes of the April 10, 1984, meeting.

Upon motion of Councilman Boland, seconded by Councilwoman Price, the minutes of the April 10, 1984, meeting were unanimously approved as submitted.

PUBLIC HEARING - UDAG (URBAN DEVELOPMENT ACTION GRANT) - WALL STREET AREA PROJECT

2. A public hearing was held relative to a UDAG (Urban Development Action Grant) for the Wall Street Area Project.

Mayor McDevitt opened the public hearing at 4:03 p.m.

The City Manager presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said the Southeastern and N.C.N.B. Development Corporation is not quite ready for the resubmission of the UDAG grant. He suggested that Council wait until Southeastern and N.C.N.B. Development Corporation submits any revisions to the grant before proceeding.

Mayor McDevitt said it was his understanding there was no change in the plans for the project since the last submission to HUD.

Mr. Emrick said Southeastern and N.C.N.B. Development Corporation has asked for additional time to obtain financial commitments and for their presentation to HUD. However, the submission of the grant must be by the end of April, 1984.

Mayor McDevitt closed the public hearing at 4:06 p.m.

A discussion was held relative to whether or not another public hearing would be required before submitting a new application for the Wall Street Area Project to HUD.

Corporation Counsel Slawter recommended that Council continue this public hearing until information is received from Southeastern and N.C.N.B. Development Corporation.

RALPH BISHOP - REPLACEMENT OF STRUCTURE ON CITY-COUNTY PLAZA

Ralph Bishop appeared and requested that Council replace the structure on the City-County Plaza with flowers and trees.

DISCUSSION RELATIVE TO DEMOLITION OF 22 NORMANDY ROAD

Max Cogburn, Attorney for owners of 22 Normandy Road said the owners are proposing to sell their property at 25 Normandy Road to complete the necessary repairs at 22 Normandy Road. He said the closing date for the sale of 25 Normandy Road is May 15, 1984. He said the contract to complete the repairs at 22 Normandy Road had not yet been completed.

Mayor McDevitt said it was the consensus of Council to postpone action relative to the demolition of 22 Normandy Road until May 22, 1984 giving the property owners an opportunity to produce a contract for completion of the repairs at 22 Normandy Road and financial commitment to do so.

COUNCIL RECESS

Mayor McDevitt said members of Council would recess into Executive Session and at the completion of that Executive Session would again recess until Thursday, April 12, 1984 at 12:00 Noon for another Executive Session at which time the meeting would be adjourned.

ADJOURNMENT

For the lack of a quorum, the meeting adjourned at 12:00 Noon on Thursday, April 12, 1984.

Larry McDevitt
MAYOR

William F. Holcomb
CITY CLERK

RALPH BISHOP - COMMENTS RELATIVE TO POTHOLES

Ralph Bishop spoke to Council relative to potholes on Pickwick Drive.

COURTLAND AVENUE - NIGHTCLUB - BOOTLEGGING OUTFIT

Jack Brown of 92 Courtland Avenue appeared before Council seeking relief of disturbances at 97 Courtland Avenue from a "nightclub" and "bootlegging outfit." He said "the nightclub has a jukebox blaring all night, they use the bathroom on the street, and they keep residents awake until all hours." He requested that Council investigate the disturbances.

Helen Wyatt, of 96 Courtland Avenue, also spoke relative to this subject. She said she had called the Police at least once a night for the past two months, and nothing has been done. She said they told her they have more important things to do than to clear Courtland Avenue of double parking.

Rev. Ralph T. Head, said he frequently visits a friend on Courtland Avenue, and said the street is often blocked by double-parked cars as late as 11:00 p.m. He said the men and women from the nightclub are fighting in the street at all hours, the drunks are throwing bottles into the street, and nothing has been done. He requested Council's help in this matter.

Mayor McDevitt instructed the City Manager to look into the situation immediately and report back to Council as soon as possible.

JOHN M. DAVIDSON - PETITION RELATIVE TO BEVERLY ROAD AND TRINITY CHAPEL ROAD

Mr. John M. Davidson of Haw Creek presented Council with a petition for improvements to two streets in Haw Creek, being Beverly Road and Trinity Chapel Road. He requested that Beverly Road be improved with curb and gutter on the street.

Mayor McDevitt accepted the petition and said that Council would look into the matter.

EXECUTIVE SESSION

Vice-Mayor Bratton moved that Council go into Executive Session. This motion was seconded by Councilman Myers and carried unanimously.

The meeting was continued until Friday, April 20, 1984, at 1:00 p.m.

Jean McDevitt
MAYOR

William J. Morcott
CITY CLERK

Mayor McDevitt reopened the public hearing at 4:10 p.m.

Councilwoman Price moved to continue the public hearing until April 24, 1984, until additional information is received from Southeastern and N.C.N.B. Development Corporation for the submission of a new application to HUD. This public hearing is to be continued without further advertisement. This motion weas seconded by Councilman Boland and carried unanimously.

RESOLUTION NO. 84-77 - RESOLUTION APPROVING SIGNATORIES FOR CHECKS OR DRAFTS ON OFFICIAL CITY DEPOSITORIES

Consideration was given to a resolution approving signatories for checks or drafts on official City depositories.

The City Manager read the resolution.

Upon motion of Councilwoman Frank, seconded by Councilwoman Price, Resolution No. 84-77 was unanimously adopted.

Complete text of Resolution No. 84-77 will be found in Resolution Book 14 at page 319.

CLAIMS - RAYMOND KARKOFF (SEWER)

The City Manager presented a claim received from Raymond Karkoff.

Mayor McDevitt presented the claim to the Corporation Counsel for investigation and recommendation.

VICE-MAYOR BRATTON - REPORT ON TRIP TO CHARLESTON, SOUTH CAROLINA - INCUBATOR PROGRAM

Vice-Mayor Bratton said she had visited a model Incubator Program in Charleston, South Carolina. She said the program seemed to be an inspiring assetto the community. She presented members of Council with brochures relative to the Incubator Program in Charleston, South Carolina.

EXECUTIVE SESSION CONTINUED

Mayor McDevitt said Council would go back into Executive Session after the Council meeting and at the conclusion of the Executive Session would go into a Council Work Session.

DAPHNE HOOKER - MONTFORD COMMUNITY CLUB - ZONING REQUEST

Daphne Hooker with the Montford Community Club appeared before Council requesting information on how to pursue the zoning request of the Montford Community Club to the R-4 Residential District.

Mayor McDevitt said members of Council would be discussing this matter in the Work Session and she would be given a response on the request and how to pursue the rezoning matter.

PUBLIC HEARING - COMMUNITY DEVELOPMENT BLOCK GRANT ENTITLEMENT FUNDS FOR 1984-85

RESOLUTION NO. 84-78 - RESOLUTION AUTHORIZING SUBMISSION OF A FINAL STATEMENT OF COMMUNITY DEVELOPMENT OBJECTIVES AND PROJECTED USE OF FUNDS TO THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT FOR COMMUNITY DEVELOPMENT BLOCK GRANT ENTITLEMENT FUNDS - 1984-85

2. A public hearing was held relative to a resolution authorizing submission of a final statement of Community Development Objectives and Projected Use of funds to the Department of Housing and Urban Development for Community Development Block Grant Entitlement Funds for 1984-85.

Mayor McDevitt opened the public hearing at 4:26 p.m.

The City Manager presented the notice to the public setting the date and time for the public hearing and affidavit of publication.

Mayor McDevitt said this public hearing is a requirement of the Department of Housing and Urban Development and is for the Community Development Block Grant Entitlement Funds for 1984-85 in the amount of $1,385,000.00.

Logan Delany, Director of Community Development, said that this was primary allocation of Community Development funds to Downtown Revitalization.

Upon inquiry of Barry Owen, property owner on Wall Street, Mayor McDevitt said part of the Community Development Entitlement Funds would be going for the revitalization of the Wall Street and Pack Plaza areas.

Mayor McDevitt closed the public hearing at 4:29 p.m.

Mayor McDevitt said members of Council were previously furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Vice-Mayor Bratton, seconded by Councilman Bissette, Resolution No. 84-78 was unanimously adopted.

Complete text of Resolution No. 84-78 will be found in Resolution Book No. 14 at Page ~~320~~. 330

PUBLIC HEARING - SITE PLAN - MOSSWOOD MOBILE HOME PARK - NORTH LOUISIANA AVENUE

3. A public hearing was held relative to the site plan of the proposed Mosswood Mobile Home Park, to be located on North Louisiana Avenue.

Mayor McDevitt opened the public hearing at 4:30 p.m.

The City Manager presented the notice to the public setting the time and date of the public hearing and affidavit of publication.

Tuesday, April 24, 1984 - 4:00 p.m.

Regular Meeting

Present: Mayor Larry McDevitt, Presiding; Vice-Mayor Wilhelmina Bratton; and Councilwomen Mary Lloyd Frank and Norma T. Price, Councilmen Louis Bissette, Gordon Myers and Walter R. Boland; Corporation Counsel William F. Slawter; Acting City Manager William F. Wolcott, Jr.; Deputy City Clerk Carol Hensley.

Absent: None

INVOCATION

The invocation was given by Mayor Larry McDevitt.

APPROVAL OF THE MINUTES

1. Approval of the minutes of the April 17, 1984, meeting.

Upon motion of Councilwoman Price, seconded by Councilwoman Frank, the minutes of the April 17, 1984, meeting were unanimously approved as submitted.

PROCLAMATION - "RESPECT FOR LAW WEEK" - MAY 1-7, 1984

Mayor McDevitt proclaimed May 1 - 7, 1984, as "Respect for Law Week".

Mayor McDevitt presented the proclamation to Sergeant Herb Watts.

Sergeant Watts extended an invitation to all members of Council and the City Manager to a luncheon for "Respect of Law Week" on May 3, 1984 at 12:30 p.m. at the Sheraton.

PROCLAMATION - "NURSES WEEK" - MAY 1-8, 1984

Mayor McDevitt proclaimed May 1 - 8, 1984 as "Nurses Week".

Mayor McDevitt presented the proclamation to Alise O. Irwin, RN, president of District 1 for North Carolina Nurses Association.

PROCLAMATION - "ASHEVILLE/BUNCOMBE COUNTY READING AND WRITING WEEK" - APRIL 29 - MAY 5, 1984

Mayor McDevitt proclaimed April 29 - May 5, 1984 as "Asheville/Buncombe County Reading and Writing Week".

Mayor McDevitt presented the proclamation to Betty Budd.

Betty Budd invited members of Council to a conference being held at the Swannanoa Elementary School on May 5, 1984 in observance of "Asheville/Buncombe County Reading and Writing Week".

Councilwoman Price moved to amend Councilman Bissette's motion, adding a provision that the developer provide additional buffer of two rows of white pines, 5 feet in height, around any current residential properties. Councilman Bissette and Councilman Myers accepted Councilwoman Price's amendment.

Councilman Bissette said he understood the concerns expressed by the residents in the area. However, the property is zoned for mobile home parks and the project has gone through an extensive planning process. He said he would do what he could to improve the roads in the area.

On a voice vote, the site plan was approved unanimously.

PUBLIC HEARING - SITE PLAN - TURTLE CREEK APARTMENT - PHASE II - HENDERSONVILLE ROAD

4. A public hearing was held relative to the site plan of the proposed Turtle Creek Apartments - Phase II to be located on Hendersonville Road.

Mayor McDevitt opened the public hearing at 5:01 p.m.

The City Manager presented the notice to the public setting the time and date of the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said the Asheville Planning and Zoning Commission at a meeting held April 4, 1984, reviewed the site plan of the proposed Turtle Creek Apartments - Phase II to be located on Hendersonville Road. The plan was prepared by LandDesign, Inc. for The Paragon Group, Developer, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of the site plan to City Council subject to the following items: (1) constructing streets to City Standards of 8" crushed stone base and 2" asphalt; and (2) compliance with Erosion Control Ordinance.

Mr. Emrick said Phase II of the Turtle Creek Apartments would be in the rear of the existing units. He said Phase II would consist of 176 units. He said the project complies with all requirements of the Ordinance. He said the developer plans to construct the streets in the area with 6 inches of crushed stone and 2½ inches of asphalt. He said the Director of Public Works has concurred with this procedure for constructing the streets. He said the streets would be private.

Mayor McDevitt closed the public hearing at 5:06 p.m.

Councilman Boland moved to approve the site plan of the proposed Turtle Creek Apartments, Phase II, to be located on Hendersonville Road, subject to the conditions outlined by the Planning and Zoning Commission. This motion was seconded by Councilwoman Frank and carried unanimously.

Mr. Verl Emrick, Director of Planning, said the Asheville Planning and Zoning Commission at a meeting held April 4, 1984, reviewed the site plan of the proposed Mosswood Mobile Home Park to be located on North Louisiana Avenue. The site plan was prepared by Ray Anders, R.L.S., for Mr. Allen Moss, Developer, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of the site plan to City Council subject to the following items: (1) 11 lots (marked on plat) being brought into size conformance; (2) installation of two (2) fire hydrants; (3) compliance with Erosion Control Ordinance; and (4) obtaining a letter from the Buncombe County Board of Education stating that they have facilities adequate to service the project.

Mr. Emrick said he had received a letter from Dr. Teague, with the Buncombe County Board of Education stating that the development of the Mosswood Mobile Home Park would not affect the elementary or high school in the area. However, the middle school is presently overcrowded and may cause some problems.

Mr. Emrick said water and sewer are available to support the project.

Upon inquiry of Councilwoman Price, Mr. Emrick said the buffer requirements would be met with planting of white pines.

Mr. Allen Moss, developer, spoke in support of the project, stating that he would put up additional buffer of two rows of white pines if necessary. He said that there would be 114 units with 6 mobile homes per acre.

At the request of Vice-Mayor Bratton, Mr. Emrick read Dr. Teague's letter from the Board of Education.

Mr. R. W. Trexler, 80 Bingham Road, said his property adjoins Mr. Moss' proposed mobile home park. He spoke in opposition to the development, stating that there are too many trailers in the area.

Donna Anderson spoke in opposition to the proposed mobile home park, stating her property is north of the property in question. She said there were too many trailers in the area now, and the middle school is overcrowded. She also said that the road would not accommodate 114 additional families.

Mayor McDevitt closed the public hearing at 4:55 p.m.

Councilman Bissette moved to approve the site plan of the proposed Mosswood Mobile Home Park, subject to the conditions outlined by the Planning and Zoning Commission, except the obtaining of a letter from the Buncombe County Board of Education, stating that they have facilities adequate to serve the project. This motion was seconded by Councilman Myers.

Mayor McDevitt said in March, 1984, Schneider Nine, the City and County entered into a Master Agreement to provide the terms and conditions detailing the roles for South Pack Plaza Project. An essential part of the funding of the Project was the awarding of an "UDAG" Grant by the United States Department of Housing and Urban Development. HUD has awarded to the City of Asheville a UDAG in the amount of $3.4 million. HUD has set forth certain conditions which must be included in the Master Agreement. The Mayor is authorized to execute on behalf of the City of Asheville an amendment to the Master Agreement.

Ralph Bishop spoke in opposition to the resolution.

Upon motion of Councilwoman Price, seconded by Councilman Bissette, Resolution No. 84-79 was unanimously adopted.

Complete text of Resolution No. 84-79 will be found in Resolution Book No. 14 at Page ~~321~~. 332 .

BIDS - ANNUAL CONTRACT FOR BITUMINOUS CONCRETE MATERIALS.

6. Consideration was given to bids for annual contract for bituminous concrete materials.

The City Manager said sealed bids were received for a term purchase contract to furnish the City's annual requirement for Bituminous Concrete Materials. Since only one bid was received, a market survey was conducted and the bid price was found to be consistent with other cities and the state's current costs. Clark Brown, Director of Public Works, has reviewed the bid and approves it for award to the only bidder, APAC-Carolina, Asheville, N. C.

Section I - Street Surface Program	$110,250.00
Section II - Pavement Patching Program	39,050.00
	$149,300.00

The City Manager said the bid was for $24.50 per ton.

In response to Mayor McDevitt, the City Manager said this is the same company the City is presently involved in,in arbitration relative to the downtown streets. He said this is the only major paving company in Asheville.

After discussion, Councilwoman Frank moved to approve the bids and award the contract to APAC-Carolina. This motion was seconded by Councilman Boland.

Mayor McDevitt said he would like to see what bids could be received from any other company.

Mayor McDevitt moved that action be tabled on the bids for two weeks. This motion was seconded by Vice-Mayor Bratton.

CONTINUATION OF PUBLIC HEARING - UDAG (URBAN DEVELOPMENT ACTION GRANT) - WALL STREET AREA PROJECT.

5. A public hearing relative to a UDAG (Urban Development Action Grant) for the Wall Street area project was continued.

Mayor McDevitt said this public hearing was continued from the April 17, 1984 meeting.

Mayor McDevitt read the following statement:

The City will not be filing an application this quarter with U. S. Department of Housing and Urban Development for the UDAG grant in connection with the Wall Street Project.

One of the developers with whom the City has executed a Memorandum of Understanding for the Wall Street Project, Southeastern Historic Properties, Inc., has not been able to arrange for the firm commitment of its equity within the requirements of U. S. Department of Housing and Urban Development and the City. All other financial elements of the project are in place, including the equity commitment of NCNB Community Development Foundation, the bank financing, the County revenue sharing funds, and the City CDBG funds.

At this point the City, the County, and NCNB Community Development Foundation are still prepared to go forward with the project, and we understand that Southeastern Historic Properties, Inc. is continuing its attempts to raise the necessary equity in form and amount sufficient to meet the requirements of HUD and the City.

While we are disappointed, this does not mean that the Wall Street Project is dead or will be abandoned, and in fact there has been considerable interest expressed in the Project by other developers. The City will pursue discussions and negotiations for other proposals consistent with the plan previously developed by the Downtown Commission for the Wall Street Area.

Mayor McDevitt said due to the foregoing statement, there would be no need to continue with the public hearing.

Mayor McDevitt and members of Council answered questions from the News Media and public.

Mayor McDevitt closed the public hearing at 5:21 p.m.

RESOLUTION No. 84-79 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE ON BEHALF OF THE CITY OF ASHEVILLE AN AMENDMENT TO THE MASTER AGREEMENT BY AND AMONG SCHNEIDER NINE, INC., THE CITY OF ASHEVILLE AND BUNCOMBE COUNTY.

5. Consideration was given to a resolution authorizing the Mayor to execute on behalf of the City of Asheville an amendment to the Master Agreement by and among Schneider Nine, Inc., the City of Asheville and Buncombe County.

APPROVAL OF DISPOSAL PARCELS - EAST RIVERSIDE RENEWAL PROJECT. (PARCELS 195 and 220-B.

9. Consideration was given to the approval of the sale of disposal parcel in the East Riverside Renewal Project.

Mayor McDevitt said the Housing Authority has tentatively accepted the following bids for disposal parcels in the East Riverside Renewal Project.

Parcel	Reuse	Price	Bid	Redeveloper
195	Residential	$1,400	$1,450	Herman & Mary McDaniel
220-B	Office Institutional	$10,500	$11,000	Hillhaven, Inc.

Lot 195 is a residential lot sale to an adjacent property owner to provide additional yard space. Appropriate landscaping will be done but no construction is planned.

Lot 220-B - Hillhaven Nursing Home plans to expand their present facility and plans to utilize subject property for off-street parking off Livingston Street. This property is contiguous to property presently owned by Hillhaven.

Councilwoman Frank moved to approve the sale of the disposal parcels as recommended by the Housing Authority. This motion was seconded by Councilman Myers and carried unanimously.

RESOLUTION NO. 84-81 - RESOLUTION ACCEPTING CERTAIN STATE SYSTEM STREETS AS CITY SYSTEM STREETS IN THE SWEETEN CREEK ROAD ANNEXATION AREA.

10. Consideration was given to a resolution accepting certain State system streets as City system streets in the Sweeten Creek Road annexation area.

Mayor McDevitt said members of Council were previously furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Bissette, seconded by Councilman Boland, Resolution No. 84-81 was unanimously adopted.

Complete text of Resolution No. 84-81 will be found in Resolution Book No. 14 at Page ~~323-324~~. 331 + 332

RESOLUTION NO. 84-82 - RESOLUTION TO PROVIDE THAT THE MAYOR ON BEHALF OF THE CITY OF ASHEVILLE BE AUTHORIZED TO EXECUTE AN AGREEMENT BY AND BETWEEN THE CITY OF ASHEVILLE AND THE COUNTY OF BUNCOMBE FOR DISTRIBUTION OF LOAN REPAYMENT PROCEEDS FOR THE PACK PLAZA PROJECT.

11. Consideration was given to a resolution to provide that the Mayor on behalf of the City of Asheville be authorized to execute an agreement by and between the City of Asheville and the County of Buncombe for distribution of loan repayment proceeds for the Pack Plaza Project.

After discussion, on a voice vote of 5-2, Mayor McDevitt's motion to table action failed, with Mayor McDevitt and Vice-Mayor Bratton voting yes.

On a voice vote of 5-2, the motion to approve the bids for APAC-Carolina passed, with Mayor McDevitt and Vice-Mayor Bratton voting "no".

BIDS - TERM PURCHASE CONTRACT FOR HERBICIDE FOR STREET DIVISION.

7. Consideration was given to bids for Term Purchase Contract for herbicide for Street Division.

Mayor McDevitt said on March 26, 1984 bids were received to furnish the 1984 season requirements for herbicide for the Street Division's right-of-way maintenance program. Four (4) bids were received. Clark Brown, Director of Public Works, and Mike Evans, Street Superintendent have reviewed these bids and recommend that the award be made to the second low bidder, Asheville FCX Service, on the basis that their bid is the lowest bid meeting the delivery specifications of the bid request. The Asheville FCX bid price is $74.90 per gallon.

Councilwoman Price moved to approve the bid of Asheville FCX Service. This motion was seconded by Councilman Boland and carried unanimously.

Councilwoman Frank requested that the City Manager look into the possibility of buying such materials from the State in the future.

RESOLUTION NO. 84-80 - RESOLUTION AUTHORIZING THE MAYOR TO SIGN ON BEHALF OF THE CITY OF ASHEVILLE A CONTRACT WITH COOPER CONSTRUCTION COMPANY, FOR THE PROJECT KNOWN AS REROOFING AND CORRECTIVE WORK TO THE MUNICIPAL BUILDING.

8. Consideration was given to a resolution authorizing the Mayor to sign on behalf of the City of Asheville a contract with Cooper Construction Company, for the project known as Reroofing and Corrective Work to the Municipal Building.

Mayor McDevitt said on April 3, 1984 bids were received for "Reroofing and Corrective work to the Asheville Municipal Building". Nine (9) bids were received. Sutton-Kennerly & Associates, Consulting Engineers and Tom Tarrant, City Engineering Coordinator, recommends the acceptance of Cooper Construction Company, Inc. as low bidder, in the amount of $97,841. They also recommend that a Contingency Fund of $8,000.00 be allocated for this contract which may be needed for testing laboratory work, unforeseen changes to the contract, and miscellaneous costs, as previously budgeted.

The City Manager outlined the bid summary sheet.

Upon motion of Councilwoman Frank, seconded by Councilman Boland, Resolution No. 84-80 was unanimously adopted.

Complete text of Resolution No. 84-80 will be found in Resolution Book No. 14 at Page 322. 333

HIGHLIGHTS: Alexander Investment Partnership has offered to dedicate to the City of Asheville a right-of-way through this property for a new, yet unnamed, road. An Agreement signed by the City, Alexander Investment Partnership, and other involved parties dated September 13, 1983, calls for said right-of-way to be dedicated to the City. The City Engineering Division has verified that said road has been graded to the requirements of the City and that the plat of said right-of-way prepared by Hutchinson-Biggs and Associates, Inc., dated November 16, 1983, is a true representation of said right-of-way. This resolution will authorize the City Clerk to accept on behalf of the City of Asheville the dedicated right-of-way.

Resolution Book No. 14, page ~~327~~. 331

C. Scheduling of a public hearing relative to rezoning property in the Montford area for May 15, 1984.

HIGHLIGHTS: The Asheville Planning and Zoning Commission at a special meeting held March 14, 1984, considered the request of the Montford Community Club that two areas in the Montford neighborhood be rezoned in order to bring the zoning in line with the historic district designation. After review and discussion, the Commission voted to recommend the City Council that the existing district boundaries and zoning classifications remain as presently described on the official zoning maps. The Montford Community Club wishes to pursue the rezoning request, appealing the decision of the Planning and Zoning Commission.

FISCAL IMPACT: None

D. Scheduling of a public hearing relative to a proposed wording amendment to the Zoning Ordinance - Professional Offices in R-3 Residential District - for May 22, 1984.

HIGHLIGHTS: The Asheville Planning and Zoning Commission at a meeting held April 18, 1984, considered a proposed wording amendment to the Zoning Ordinance which would allow Professional Offices in the R-3 Residential District as a Conditional Use. After review and discussion, the Commission voted to recommend to City Council that Section 30-5-4 (B) and (C) of the Asheville Zoning Ordinance be amended.

FISCAL IMPACT: None

E. Scheduling of a Public Hearing relative to a Proposed Wording Amendment to Asheville Zoning Ordinance - Granting of Variances/Group Developments for May 22, 1984.

Mayor McDevitt said on March 16, 1984 the City of Asheville and County of Buncombe entered into a Master Agreement with Schneider Nine, Inc., regarding the development of the Pack Plaza Project. In the Master Agreement the County agreed to contribute up to $660,000 and the City agreed to contribute up to $1,340,000, which contributions are defined in the Master Agreement as the City/County Loan. The Master Agreement calls for the City to receive loan repayment proceeds in the form of principal and interest payments from both the City/County Loan and UDAG Loan. A percentage of said proceeds is to be distributed to the County based on a Distribution formula defined in said Master Agreement whereby the County will receive a pro rata share of all cash payments made by Schneider to the City based on the ratio of County investment to the total City/County Loan. Both the City and County have agreed to said Distribution Formula and desire to enter into an agreement to further define the details of said financial distribution.

Upon motion of Councilwoman Price, seconded by Councilwoman Frank, Resolution No. 84-82 was unanimously adopted.

Complete text of Resolution No. 84-82 will be found in Resolution Book No. 14 at Page ~~325~~. 336

APPROVAL OF THE CONSENT AGENDA.

NOTE: The following items are of a routine nature and they have been previously reviewed by the members of the City Council. Therefore, by unanimous vote to approve these items, the City Council may, pursuant to the procedures established in Ordinance No. 1008, adopt all of the items with one motion without the full reading and/or separate motion adopting each individual item. Upon the request of a citizen, a member of the City Council, and/or a member of the City staff, any single item scheduled for approval on the consent agenda may be considered separately.

A. Resolution No. 84-83 - Resolution authorizing the Chief of the Asheville Fire Department to execute an agreement by and between the City of Asheville and Asheville-Buncombe Technical College for the loan of an old Fire Pump.

HIGHLIGHTS: The Asheville Fire Department and Asheville-Buncombe Technical College have discussed the loan of an "old fire pump" to Asheville-Buncombe Technical College for training purposes in the Fire Training Program of Asheville-Buncombe Technical College. The Asheville Fire Department and Asheville-Buncombe Technical College desire to enter into an agreement governing the loan of the old fire pump.

Resolution Book No. 14, page ~~326~~. 337

B. Resolution No. 84-84 - Resolution authorizing the City Clerk to accept on behalf of the City of Asheville a dedicated road Right-of-Way from Alexander Investment Partnership.

LAWSUITS - LAWRENCE O. & DORIS S. RICE (SEWER BACK-UP)

The City Manager said the City was served with a summons in connection with a lawsuit involving Lawrence O. & Doris S. Rice relative to a sewer back-up.

Mayor McDevitt referred the law suit to the Corporation Counsel for investigation and recommendation.

COMMENTS RELATIVE TO THE PROPOSED DEVELOPERS CONFERENCE

Upon inquiry of Vice-Mayor Bratton, Councilman Boland said the Proposed Developers Conference is looking favorable. He said 130 developers have signed up for the conference.

RALPH BISHOP - LOTTERY SALES

Ralph Bishop again spoke to members of Council relative to lottery sales in the City of Asheville.

EXECUTIVE SESSION

Upon motion of Councilman Boland, seconded by Councilman Bissette, Council adjourned into executive session to discuss a personnel matter.

Larry McDevitt
MAYOR

William F. Moore Jr.
CITY CLERK

HIGHLIGHTS: The Asheville Planning and Zoning Commission at a meeting held April 18, 1984, considered a proposed wording amendment to the Zoning Ordinance which would simplify the review process for a developer when variances are required for group development projects and eliminate a third review of the project by an appointed board or commission. After review and discussion, the Commission recommended an amendment to Section 3061.B. Development Standards authorizing Council to grant variances for building/structural setbacks, density requirements, provisions of the sign regulations, and offstreet parking requirements.

FISCAL IMPACT: None

F. Scheduling of a public hearing relative to rezoning property between Southern Railway and Sweeten Creek Road for May 22, 1984.

HIGHLIGHTS: The Asheville Planning and Zoning Commission at a meeting held April 18, 1984, considered the request of Mr. Ray Hamlin, Agent, that Ward 7, Sheet 56, Lots 1, 3, 4, 7, and 8 be rezoned from R3 Residential District to CS Commercial Service District. The property is located between Southern Railway and Sweeten Creek Road. After review and discussion, the Commission voted to recommend approval of this petition to City Council.

FISCAL IMPACT: None

Upon Motion of Councilman Myers, seconded by Councilwoman Frank, the Consent Agenda was unanimously approved.

APPROVAL OF PUMP IN BALLENTREE IN THE CITY WATER SYSTEM.

Vice-Mayor Bratton moved that the City of Asheville include the pump in Ballentree in the City water system. This motion was seconded by Councilman Myers and carried unanimously.

CLAIMS - MRS. CHARLES MITCHELL (WATER) - JANICE HUDSON (WATER) - LOUIS VLAHOS (SEWER) - BILL McCANLESS (WATER) - JENNIFER AUSTIN (STREETS)

The City Manager presented claims received from Mrs. Charles Mitchell, Janice Hudson, Louis Vlahos, Bill McCanless and Jennifer Austin.

Mayor McDevitt referred the claims to the Corporation Counsel for investigation and recommendation.

14 at Page ~~328~~ 337

PROCLAMATION - "SMALL BUSINESS WEEK" - MAY 6 - 13, 1984

Vice-Mayor Bratton proclaimed May 6 - 13, 1984 as "Small Business Week."

PROCLAMATION - "NATIONAL PRAYER DAY" - MAY 3, 1984

Vice-Mayor Bratton proclaimed May 3, 1984 as "National Prayer Day."

CLAIMS - RUFUS MOORE (STREETS) - WILLIAM PETZ AND M. RITTER (INSPECTIONS)

The City Manager presented claims received from Mr. Rufus Moore and Messrs. William Petz and M. Ritter.

Vice-Mayor Bratton referred the claims to the Corporation Counsel for investigation and recommendation.

RALPH BISHOP - LOTTERY SALES

Ralph Bishop spoke to members of Council relative to lottery sales in the City of Asheville and his difficulty in obtaining Police Pension records for former Police Chief, J. C. Hall.

EXECUTIVE SESSION

Upon motion of Councilman Boland, seconded by Councilman Myers, Council adjourned into executive session.

Ray McDevitt
MAYOR

William J. Moseley
CITY CLERK

Tuesday, May 1, 1984 - 4:00 p.m.

Regular Meeting

Present: Vice-Mayor Wilhelmina Bratton, Presiding; Coucilwoman Mary Lloyd Frank, Councilman Louis Bissette, Gordon Myers and Walter R. Boland; Corporation Counsel William F. Slawter; Acting City Manager William F. Wolcott, Jr.; Deputy City Clerk Carol Hensley.

Absent: Mayor Larry McDevitt and Councilwoman Norma Price.

INVOCATION

The invocation was given by Rabbi Ronald C. Bluming.

APPROVAL OF THE MINUTES

1. Approval of the minutes of the April 24, 1984, meeting.

Corporation Counsel Slawter recommended that the minutes include the Bid Summary Sheet for all bids considered. He said the North Carolina General Statutes requires that all bid proposals be made a part of the minutes.

Upon motion of Councilwoman Frank, seconded by Councilman Boland, the minutes of the April 24, 1984 meeting were unanimously approved as amended.

PROCLAMATION - "DAYS OF REMEMBERANCE OF THE VICTIMS OF THE HOLOCAUST" - APRIL 29 - MAY 6, 1984.

Vice-Mayor Bratton proclaimed April 29 - May 6, 1984 as "Days of Rememberance of the Victims of the Holocaust."

Vice-Mayor Bratton presented the proclamation to Rabbi Ronald C. Bluming and Rabbi Paul Grob. Others attending included: Mrs. Harry Lerner, Dr. Milton Ready, Mr. Freidman and Mr. Henry Myers.

Mrs. Lerner, Dr. Ready, Mr. Freidman and Rabbi Bluming spoke of the Holocaust 40 years ago, what it meant to them, and thanked Council for the proclamation.

RESOLUTION NO. 84-85 - RESOLUTION OF APPRECIATION OF CAPTAIN CLAYTON W. LEWIS

2. Consideration was given to a resolution of appreciation to Captain Clayton W. Lewis.

Vice-Mayor Bratton read the resolution.

Captain Lewis retired April 1, 1984 from the City after being employed since 1947.

Chief Ball accepted the resolution for Captain Lewis.

Upon motion of Councilman Boland, seconded by Councilman Myers, Resolution No. 84-85 was unanimously adopted.

PUBLIC HEARING - CHANGING NAME OF PINE STREET TO TOWN MOUNTAIN ROAD

RESOLUTION NO. 84-86 - RESOLUTION CHANGING THE NAME OF A SECTION OF PINE STREET TO TOWN MOUNTAIN ROAD

2. A public hearing was held relative to changing the name of a section of Pine Street to Town Mountain Road.

Mayor McDevitt opened the public hearing at 4:13 p.m.

The City Manager presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said the Street Department had provided appropriate notices and no opposition had been received relative to the changing of the name of the street.

After discussion, Mayor McDevitt closed the public hearing at 4:14 p.m.

The City Manager said copies of the resolution were previously distributed to members of Council and it would not be read in its entirety.

Upon motion of Councilwoman Frank, seconded by Councilwoman Price, Resolution No. 84-86 was unanimously adopted.

Councilwoman Price moved to amend Resolution No. 84-86 deleting the word Poplar Street and inserting the words "College Street (formerly Poplar Street)." This motion was seconded by Councilman Boland and carried unanimously.

Complete text of Resolution No. 84-86 will be found in Resolution Book No. 14 at page ~~329~~ 340 .

PUBLIC HEARING - REZONING PROPERTY LOCATED ON NORTH LOUISIANA AVENUE

3. A public hearing was held relative to rezoning property located on North Louisiana Avenue.

Mayor McDevitt opened the public hearing at 4:18 p.m.

The City Manager presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said the Asheville Planning and Zoning Commission, at a meeting held April 4, 1984, considered the request of Mr. Allen Moss et al that Ward 6, Sheet 17, Lots 84, 86, 58, 57, 54, 55, and 56. be rezoned from R-3 Residential District to CH Commercial Highway District. After review and discussion, the Commission voted to recommend to City Council that this request be denied. The petitioners have appealed the decision of the Planning and Zoning Commission, with regard to Lots 84 and 86 only, requiring Council to hold a public hearing on said request.

Mr. Emrick said the original petition contained five different petitioners, however, he said the appeal of Mr. Emmett Ramsey and Mr. Allen Moss was appropriate.

Tuesday, May 8, 1984 - 4:00 P.M.

Regular Meeting

Present: Mayor Larry McDevitt, Presiding; Vice-Mayor Wilhelmina Bratton; Councilwomen Mary Lloyd Frank and Norma T. Price; Councilmen Walter R. Boland, and Louis Bissette; Corporation Counsel William F. Slawter; Acting City Manager William F. Wolcott, Jr.; Deputy City Clerk Carol Hensley.

Absent: Gordon Myers.

INVOCATION

The invocation was given by Councilwoman Frank.

APPROVAL OF THE MINUTES

1. Approval of the minutes of the May 1, 1984 meeting.

Upon motion of Councilwoman Frank, seconded by Councilman Boland, the minutes of the May 1, 1984 meeting were unanimously approved as submitted.

PROCLAMATION - "BETTER HEARING AND SPEECH MONTH" - MAY, 1984

Mayor McDevitt proclaimed the month of May, 1984 as "Better Hearing and Speech Month."

Mayor McDevitt presented a copy of the proclamation to Mr. Harry Maroni, President of the Asheville Saratoma Club.

PROCLAMATION - "NATIONAL FITNESS TESTING WEEK" - MAY, 1984

Mayor McDevitt proclaimed the month of May, 1984 as "National Fitness Month."

Mayor McDevitt presented a copy of the proclamation to Dr. Seibert.

DOWNTOWN COMMISSION - PLANS FOR WALL STREET REDEVELOPMENT PROJECT

Mayor McDevitt announced that the Downtown Commission, chaired by Maurice Wienger, will again become active in the plans for the Wall Street redevelopment project. He said because of recent developments in the Wall Street project, the Council has asked the Downtown Commission to take a look at the situation, analyze the status and prospects, and advise the Council of its findings and make a recommendation to the Council on the best way to proceed in the future. He said the Downtown Commission would be active in the total downtown revitalization and specifically for the Wall Street proposals.

Mr. Winger said he and the Downtown Commission would certainly do their best to keep the projects moving.

On a roll call vote of 6-0, Ordinance No. 1446 passed on first reading.

Councilwoman Price moved to suspend the rules and proceed to the second reading of Ordinance No. 1446. This motion was seconded by Councilman Boland and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1438 passed on second reading.

SIGN PERMIT - MCDONALD'S CORPORATION - 800 FAIRVIEW ROAD

5. Consideration was given to a motion approving a sign permit for McDonald's Corporation for placement of an identification sign at 800 Fairview Road.

Verl Emrick, Director of Planning, said the McDonald's Corporation has applied for a sign permit to erect an identification sign at 800 Fairview Road. This permit requires the approval of City Council pursuant to the Zoning Ordinance in that the sign will be situated closer than 600' from a limited access highway.

Mr. Emrick said the sign would be located at the River Ridge Shopping Center and has received approval from the Board of Adjustments.

Mr. Don Segars, representative of McDonald's Corporation spoke in favor of approval, of the sign permit. He said this was the standard, normal sign for the McDonalds Corporation.

Vice-Mayor Bratton moved to approve the sign permit for McDonald's Corporation for placement of an identification sign at 800 Fairview Road. This motion was seconded by Councilman Bissette and carried unanimously.

SIGN PERMIT - THREE MOUNTAINEERS - SIMPSON STREET

6. Consideration was given to a motion approving a sign permit for Three Mountaineers for placement of an indentification sign on Simpson Street.

Verl Emrick, Director of Planning, said Three Mountaineers has applied for a sign permit to erect an identification sign on Simpson Street. This permit requires the approval of City Council pursuant to the Zoning Ordinance in that the sign will be situated closer than 600' from a limited access highway.

Mr. Emrick said the sign would be 300 square feet and would advertise the Three Mountaineers Outlet facility.

Mr. John Lattimore, from Three Mountaineers, spoke in favor of the sign permit.

Councilman Bissette moved to approve the sign permit for Three Mountaineers for placement of an identification sign on Simpson Street. This motion was seconded by Vice-Mayor Bratton and carried unanimously.

Councilman Boland suggested that Council have a work session relative to the sign ordinance as it pertains to large signs, billboards. He said there is a need to preserve the natural beauty of Asheville and to reduce the size of signs. He said he would appreciate Council having a work session in the very near future.

Mr. Emrick discussed plans of the North Carolina Department of Transportation to widen North Louisiana Avenue.

By the use of a map, Mr. Emrick and members of Council discussed the rezoning request and the proposed widening of North Louisiana Avenue.

Several members of Council expressed concerns about congested traffic in this particular area.

Mr. Richard Coffey, speaking for his mother Mrs. Ditmore, spoke in opposition to the rezoning saying the traffic in this area is continuously congested. He said the area could not handle additional businesses.

Mr. Emmett Ramsey, owner of Lot 86 and petitioner for the rezoning, spoke in favor of the rezoning. He said he has no particular plans except for future expansion.

Mr. Allen Moss, owner of Lot 84 and petitioner for the rezoning, spoke in favor of the rezoning stating that he has no immediate plans for his property. He said future plans might include an office building or an appliance store.

Mayor McDevitt said he was sympathetic with the petitioners' request; however, he could not endorse rezoning until the widening of North Louisiana Avenue has taken place.

Mayor McDevitt closed the public hearing at 4:39 p.m.

The City Manager said copies of the ordinance were previously distributed to members of Council, and it would not be read in its entirety.

Councilwoman Price moved that the petition for rezoning be denied. The motion was seconded by Councilwoman Frank and carried unanimously.

ORDINANCE NO. 1446 - AN ORDINANCE AMENDING SECTION 18-22 OF THE CODE OF ORDINANCE OF THE CITY OF ASHEVILLE

4. Consideration was given to an Ordinance amending Section 18-22 of the Code of Ordinances of the City of Asheville.

Mayor McDevitt said this ordinance will provide regulations for the consumption of malt beverages and unfortified wine on property the City of Asheville owns or occupies as authorized by N.C. General Statute 18B-300(c).

The City Manager said copies of the ordinance were previously distributed to members of Council, and it would not be read in its entirety.

Corporation Counsel Slawter stated that this ordinance would bring the City Code into State law compliance.

Ralph Bishop spoke in opposition to the ordinance.

Councilman Bissette moved for the adoption of Ordinance No. 1446. This motion was seconded by Vice-Mayor Bratton.

RESOLUTION NO. 84-89 - RESOLUTION AUTHORIZING THE EMPLOYEE SERVICES DIVISION HEAD TO EXECUTE ON BEHALF OF THE CITY OF ASHEVILLE A WORKERS' COMPENSATION AGREEMENT WITH CITY EMPLOYEE FORREST E. WEAVER

9. Consideration was given to a resolution authorizing the Employee Services Division Head to execute on behalf of the City of Asheville a Workers' Compensation agreement with City employee Forrest E. Weaver.

Mayor McDevitt said on June 13, 1983 Forrest E. Weaver, an employee of the City of Asheville, was injured in an accident arising out of and during the course and scope of his employment with the City. This resolution will authorize the Employee Services Division Head to sign an agreement on behalf of the City of Asheville for compensation to Forrest E. Weaver for permanent partial disability benefits.

This $7,575.00 will settle the 15% permanent partial disability to Mr. Weaver's back. This settlement is pursuant to Chapter 97 of the N.C. General Statutes. The cost will be funded from the Police Department budget.

Upon motion of Councilman Roland, seconded by Councilwoman Price, Resolution No. 84-89 was unanimously adopted.

Complete text of Resolution No. 84-89 will be found in Resolution Book No. 14 at page ~~331~~. 344

RESOLUTION NO. 84-90 - RESOLUTION AUTHORIZING THE CLOSING OF KITCHEN PLACE IN THE CITY OF ASHEVILLE FOR A "BEACH WEEK '84" SPRING CELEBRATION ON SATURDAY, MAY 19, 1984

10. Consideration was given to a resolution authorizing the closing of Kitchen Place in the City of Asheville for a "Beach Week '84" Spring celebration on Saturday, May 19, 1984.

Mayor McDevitt said Bell's Traditionals, Ltd. wishes to sponsor their First Annual "Beach Week '84," Spring celebration on Saturday, May 19, 1984 form 8:00 a.m. until 6:00 p.m. They have requested that Kitchen Place from the corner of Angle Street and Kitchen Place to Boston Way and Kitchen Place be closed for the celebration.

The City Manager said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Buffy Messer, with Bell's Traditionals, Ltd. spoke in support of the resolution.

Upon motion of Councilman Bissette, seconded by Councilwoman Price, Resolution No. 84-90 was unanimously adopted.

Complete text of Resolution No. 84-90 will be found in Resolution Book No. 14 at page ~~333~~. 344

MOTION RELATIVE TO PETITION TO REFUND OF TAXES

Mayor McDevitt said the City of Asheville had received a petition for the refund of taxes from taxpayers in the newly annexed western part of the City.

RESOLUTION NO. 84-87 - RESOLUTION AUTHORIZING THE EMPLOYEE SERVICES DIVISION HEAD TO EXECUTE ON BEHALF OF THE CITY OF ASHEVILLE A WORKERS' COMPENSATION AGREEMENT WITH CITY EMPLOYEE FREDDIE DOAN

7. Consideration was given to a resolution authorizing the Employee Services Division Head to execute on behalf of the City of Asheville a Workers' Compensation agreement with City employee Freddie Doan.

Mayor McDevitt said on April 21, 1983, Freddie Doan, an employee of the City of Asheville, was injured in an accident arising out of and during the course and scope of his employment with the City. This resolution will authorize the Employee Services Division Head to sign an agreement on behalf of the City of Asheville for compensation to Freddie Doan for permanent partial disability benefits.

This $10,360.00 will settle the 35% permanent partial disability to Mr. Doan's right hand. This settlement is pursuant to Chapter 97 of the N.C. General Statutes. The cost will be funded from the Water Maintenance Division budget.

The City Manager said copies of the resolution were previously furnished to members of Council, and it would not be read in its entirety.

Upon motion of Councilwoman Frank, seconded by Councilman Boland, Resolution No. 84-87 was unanimously adopted.

Complete text of Resolution No. 84-87 will be found in Resolution Book No. 14 at page ~~330~~. 341

RESOLUTION NO. 84-88 - RESOLUTION AUTHORIZING THE EMPLOYEE SERVICES DIVISION HEAD TO EXECUTE ON BEHALF OF THE CITY OF ASHEVILLE A WORKERS' COMPENSATION AGREEMENT WITH CITY EMPLOYEE HOYLE BRUCE RAY

8. Consideration was given to a resolution authorizing the Employee Services Division Head to execute on behalf of the City of Asheville a Workers' Compensation agreement with City employee Hoyle Bruce Ray.

Mayor McDevitt said on November 16, 1982, Hoyle Bruce Ray, an employee of the City of Asheville, was injured in an accident arising out of and during the course and scope of his employment with the City. This resolution will authorize the Employee Services Division Head to sign an agreement on behalf of the City of Asheville for compensation to Hoyle Bruce Ray for permanent partial disability benefits.

This $10,260.00 will settle the 15% permanent partial disability to Mr. Ray's back. This settlement is pursuant to Chapter 97 of the N.C. General Statutes. The cost will be funded from the Water Maintenance Division budget.

The City Manager said copies of the resolution were previously distributed to members of Council, and it would not be read in its entirety.

Upon motion of Councilwoman Frank, seconded by Councilman Boland, Resolution No. 84-88 was unanimously adopted.

Complete text of Resolution No. 84-88 will be found in Resolution Book No. 14 at page ~~331~~. 342

Vice-Mayor Bratton also requested that after the report is given that Council meet with Mr. Posey, the Chairman of the Civil Service Commission, to explore the information with them.

A discussion followed, instituted by Councilman Boland, relative to the role education plays in testing positions.

The City Manager said this information would be furnished to members of Council at the Vice-Mayor's request.

RALPH BISHOP - LOTTERY SALES AND PUBLIC RECORDS

Ralph Bishop again spoke to members of Council relative to lottery sales in the City of Asheville and his difficulty in obtaining public records.

EXECUTIVE SESSION

Vice-Mayor Bratton moved that Council adjourn into executive session for personnel matters. This motion was seconded by Councilman Bissette and carried unanimously.

Jay McDevitt
MAYOR

Frances J. Rebeiro
CITY CLERK

Patsy Brison, Staff Attorney, said she had examined the petition and provided Council with a written opinion relative to the petition. She said it would be her recommendation that Council deny the request for the refund of taxes.

Mayor McDevitt said since Corporation Counsel Slawter was previously involved in the annexation, that he was not involved in the opinion relative to the refund of taxes.

Mayor McDevitt said since one of the petitioners, Apple Tree Chevrolet is his client, he requested that he be excused from voting on this issue.

Councilwoman Price moved that Mayor McDevitt be excused from voting on the issue relative to the refund of taxes. This motion was seconded by Councilman Bissette and carried unanimously.

Councilwoman Price moved that the petition for refund of taxes be denied and that proper responses be prepared for the petitioners. This motion was seconded by Councilwoman Frank and carried unanimously.

PROCLAMATION - MAY, 1984 - "OLDER AMERICANS' MONTH"

Mayor McDevitt proclaimed the month of May, 1984 as "Older Americans' Month."

CLAIMS - RONALD MCHARGE (SANITATION) - JUDY MCGRAW (POLICE)

The City Manager presented claims received from Ronald McHarge and Judy McGraw.

Mayor McDevitt referred the claims to the Corporation Counsel for investigation and recommendation.

SCHEDULING PUBLIC HEARING - EROSION CONTROL ORDINANCE

Councilman Boland moved to schedule a public hearing relative to the adoption of a new erosion control ordinance for May 22, 1984. This motion was seconded by Councilman Bissette and carried unanimously.

VICE-MAYOR BRATTON - REQUEST RELATIVE TO CIVIL SERVICE TESTING PROCEDURES

Vice-Mayor Bratton requested a report from the Chairman of the Civil Service Commission for a clearer understanding on the policies and procedures that the City of Asheville has for testing of positions. She said she would specifically like to know what the definition of exempt position and non-exempt positions are, what kinds of positions are tested, and if all the exempt positions are tested or just the non-exempt, if there are different kinds of tests for each and if so, how they are made up and by whom, she said she would like to know how the tests are scored and by whom and what role first-line managers play in scoring the tests. She said she would like to know if the first-line managers participate in the scoring of the tests from an advisory standpoint. She said she would like to know how the entire process takes place from a time a person makes an application until they are put on the eligibility list.

Mr. Emrick said several residents in the area did not wish their property to be rezoned.

Mr. Doug Swaim, 296 Montford Avenue, speaking on behalf of the Planning Committee of the Montford Community Club, spoke in support of the rezoning as requested by the Planning Committee. He said the Planning Committee feels that the rezoning is in the best interest of the neighborhood and the city. He said the areas requested to be rezoned residential are, in fact, 99% residential at the present time. He said they feel the rezoning would provide orderly growth for the city and would be the highest and best use of the land. He said the rezoning proposal has received the support of the Historic Resources Commission.

Daphne Hooker, Bruce Roberts, Susan Mayer, and Mary Jo Brezney spoke in support of the rezoning to R-3 Residential.

Mayor McDevitt closed the public hearing at 4:40 p.m.

Councilwoman Price moved to schedule a public hearing for an amendment to the Zoning Ordinance which would provide for the rezoning of property, pursuant to the petition presented to City Council by the Montford Community Club, with the exception of the portion of the property bounded generally by Montford, Pearson, Watauga, and Santee currently zoned OI which would remain OI for those properties owned by Highland Hospital and some unidentified owner at the corner of Watauga and Montford; however, properties fronting on Pearson and Watauga would be zoned R-3 Residential District for June 5, 1984. This motion was seconded by Councilman Boland and carried unanimously.

Mayor McDevitt and Councilman Bissette were excused from the meeting at 4:45 p.m. Vice-Mayor Bratton presided over the meeting.

MONTFORD TREE PLAN

Ray Kisiah, Director of Parks, Recreation, and Public Facilities, presented a Montford Tree Plan for Council's consideration. He said a number of groups had been working to develop the plan. He said the plan includes planting of new trees in the Montford area particularly on Montford Avenue, replacing existing diseased and damaged trees. He said the trees would be furnished by donations. He said the trees will not be placed in conflict with existing utilites. He said that ULOCO had reviewed the plan.

A citizen noted that at 141 Cumberland Avenue a diseased tree needed to be replaced.

Another citizen indicated that trees on Watauga Street need replacement.

Councilman Boland moved to approve the Montford Tree Plan as presented by the Director of Parks, Recreation, and Public Facilities. This motion was seconded by Councilwoman Frank and carried unanimously.

ORDINANCE NO. 1446 - AN ORDINANCE AMENDING SECTION 18-22 OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE (MALT BEVERAGES AND UNFORTIFIED WINE)

3. Consideration was given to the third reading of Ordinance No. 1446, an ordinance amending Section 18-22 of the Code of Ordinances of the City of Asheville.

Tuesday, May 15, 1948 at 4:00 p.m.

Regular Meeting

Present: Mayor Larry McDevitt, Presiding; Vice-Mayor Wilhelmina Bratton; Councilwomen Mary Lloyd Frank and Norma T. Price; Councilmen Gordon Myers, Walter R. Boland, and Louis Bissette; Corporation Counsel William F. Slawter; Deputy City Clerk Carol Hensley.

Absent: Acting City Manager William F. Wolcott, Jr.

INVOCATION

The invocation was given by Councilman Myers.

APPROVAL OF THE MINUTES

1. Approval of the minutes of the May 8, 1984 meeting.

Upon motion of Councilman Bissette, seconded by Councilwoman Frank, the minutes of the May 8, 1984 meeting were unanimously approved as submitted.

PUBLIC HEARING - REZONING PROPERTY IN THE MONTFORD AREA

2. A public hearing was held relative to rezoning property in the Montford area.

Mayor McDevitt announced that he and Councilman Bissette would be leaving the meeting at 4:30 p.m. to attend a Council-related meeting with the County Commissioners.

Mayor McDevitt said this public hearing is to obtain input from those interested in the rezoning proposal. He said City Council would not be considering a zoning amendment at today's meeting. He said if the City Council decides to proceed with the rezoning, a motion would be made to schedule a public hearing relative to amending the zoning ordinance rezoning the property.

Mayor McDevitt opened the public hearing at 4:06 p.m.

The Deputy City Clerk presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said the Asheville Planning and Zoning Commission at a meeting held March 14, 1984, considered the request of the Montford Community Club that two areas in the Montford neighborhood be rezoned in order to bring the zoning in line with the historic district designation. After review and discussion, the Commission voted to recommend to City Council that the existing district boundaries and zoning classifications remain as presently described on the official zoning maps. The Montford Community Club wishes to pursue the rezoning of the area.

By the use of a map, Mr. Emrick outlined the rezoning request of the Montford Community Club. He also outlined alternatives recommended by the staff of the Planning Department. He said the Planning and Zoning Commission took all the recommendations under consideration, after which they recommended no change in the zoning configuration in the Montford area.

Tuesday, May 22, 1984 at 4:00 p.m.

Regular Meeting

Present: Mayor Larry McDevitt, Presiding; Vice-Mayor Wilhelmina Bratton; Councilwomen Mary Lloyd Frank and Norma T. Price; Councilmen Gordon Myers, Walter R. Boland, and Louis Bissette; Corporation Counsel William F. Slawter; Acting City Manager William F. Wolcott, Jr.; Deputy City Clerk Carol Hensley.

Absent: None

INVOCATION

The invocation was given by Councilman Walter Boland.

APPROVAL OF THE MINUTES

1. Approval of the minutes of the May 15, 1984 meeting.

Upon motion of Councilwoman Price, seconded by Councilwoman Frank, the minutes of the May 15, 1984 meeting were unanimously approved as submitted.

PUBLIC HEARING - WORDING AMENDMENT - ZONING ORDINANCE - PROFESSIONAL OFFICES IN R-3 RESIDENTIAL DISTRICT

ORDINANCE NO. 1439 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED (PROFESSIONAL OFFICES IN R-3 DISTRICT)

2. A public hearing was held relative to a proposed wording amendment to the Zoning Ordinance - Professional Offices in R-3 Residential District.

Mayor McDevitt opened the public hearing at 4:02 p.m.

The City Manager presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Planning Director, said the Asheville Planning and Zoning Commission at a meeting held April 18, 1984, considered a proposed wording amendment to the Zoning Ordinance which would allow Professional Offices in the R-3 Residential District as a Conditional Use. After review and discussion, the Commission voted to recommend to City Council that Section 30-5-4 (B) and (C) of the Asheville Zoning Ordinance be amended.

Mr. Emrick outlined quidelines to be used by the Board of Adjustment in approving such Conditional Uses.

Vice-Mayor Bratton said this ordinance was previously read on first and second reading and would not be reread in its entirety unless there was a specific request to do so.

On a roll call vote of 5-0, Ordinance No. 1446 passed on third and final reading.

Complete text of Ordinance No. 1446 will be found in Ordinance Book No. 10 at page 149 and 150.

CLAIMS - WHITFIELD AND PHILLIPS (FIRE) - DIANE KISAMORE (METER READERS) - TONY STANLEY (FIRE) - MARK STROM (WATER) - MATHILDE DALTON (SANITATION) - RICK DAVIS (TRAFFIC ENGINEERING) - JERMAINE PINKNEY (PARKS AND RECREATION)

The Deputy City Clerk presented claims received from Whitfield and Phillips, Diane Kisamore, Tony Stanley, Mark Strom, Mathilde Dalton, Rick Davis, and Jermaine Pinkney.

Vice-Mayor Bratton referred the claims to the Corporation Counsel for investigation and recommendations.

RALPH BISHOP - OBTAINING CITY RECORDS

Ralph Bishop again spoke to Council members relative to lottery sales in the City of Asheville and his difficulty in obtaining City records relative to former Police Chief, J. C. Hall.

ADJOURNMENT

Upon motion of Councilwoman Price, seconded by Councilman Myers, the meeting adjourned at 5:15 p.m.

Tony McDevitt
Mayor

William F. Holcomb
City Clerk

The City Manager said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Councilman Boland moved for the adoption of Ordinance No. 1440. This motion was seconded by Councilwoman Frank.

On a roll call vote of 7-0, Ordinance No. 1440 passed on first reading.

PUBLIC HEARING - REZONING PROPERTY BETWEEN SOUTHERN RAILWAY AND SWEETEN CREEK ROAD

ORDINANCE NO. 1441 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED

4. A public hearing was held relative to rezoning property between Southern Railway and Sweeten Creek Road.

Mayor McDevitt opened the public hearing at 4:21 p.m.

The City Manager presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said the Asheville Planning and Zoning Commission at a meeting held April 18, 1984, considered the request of Mr. Ray Hamlin, Agent, that Ward 7, Sheet 56, Lots 1, 3, 4, 7, and 8 be rezoned from R-3 Residential District to CS Commercial Service District. The property is located between Southern Railway and Sweeten Creek Road. After review and discussion, the Commission voted to recommend approval of this petition to City Council.

A discussion was held relative to the need to retain a residential buffer fronting on Rock Hill Road.

Ray Hamlin, Agent for the petitioner, said the property has natural barriers for the residential area.

Mayor McDevitt closed the public hearing at 4:27 p.m.

The City Manager said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Councilwoman Price moved for the adoption of Ordinance No. 1441 with the proviso that a 50 foot buffer strip on the southern portion of Lot 8 remain zoned residential. This motion was seconded by Councilman Bissette.

On a roll call vote of 7-0, Ordinance No. 1441 passed on first reading.

By the use of the map, Mr. Emrick outlined the major thoroughfares in the City, showing the locations where professional offices could be used in the R-3 Residential District.

A discussion was held relative to amending the Ordinance to include specific streets where professional offices would be allowed in the R-3 District.

Mayor McDevitt closed the public hearing at 4:15 p.m.

Mayor McDevitt said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Councilwoman Price moved for the adoption of Ordinance No. 1439 with instructions to the staff to present amendments to the ordinance, prior to second reading, outlining specific streets upon which this type of Conditional Use would be allowed. This motion was seconded by Councilman Boland.

On a roll call vote of 7-0, Ordinance No. 1439 passed on first reading.

PUBLIC HEARING - WORDING AMENDMENT - ZONING ORDINANCE - GRANTING OF VARIANCES/GROUP DEVELOPMENT

ORDINANCE NO. 1440 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING FOR THE CITY OF ASHEVILLE," AS AMENDED (GROUP DEVELOPMENTS/VARIANCES)

3. A public hearing was held relative to the proposed wording amendment to Asheville Zoning Ordinance - granting of variances/group developments.

Mayor McDevitt opened the public hearing at 4:17 p.m.

The City Manager presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said the Asheville Planning and Zoning Commission at a meeting held April 18, 1984, considered a proposed wording amendment to the Zoning Ordinance which would simplify the review process for a developer when variances are required for group development projects and eliminate a third review of the project by an appointed board or commission. After review and discussion, the Commission recommended an amendment to Section 30-6-1.B. Development Standards authorizing Council to grant variances for building/structural setbacks, density requirements, provisions of the sign regulations, and off-street parking requirements.

Mayor McDevitt closed the public hearing at 4:20 p.m.

DISCUSSION - DEMOLITION OF 22 Normandy Road

Mayor McDevitt said at the Council meeting of March 13, 1984, a discussion was held relative to directing the Director of Inspections and Demolitions to take all steps necessary to effectuate a demolition of 22 Normandy Road at the earliest possible date. Action was postponed until May 22, 1984.

Attorney Max Cogburn, representing the owners of 22 Normandy Road, appeared before Council stating that at the present time, Mrs. Gage is the sole owner of 22 Normandy Road. He said as requested by Council, Stewart Construction Company has been relieved from doing any construction at 22 Normandy Road. He said, in addition, he now has an agreement signed by a contractor, Mr. Jones, and Mrs. Gage to complete the repairs at 22 Normandy Road. He said the contract price is $35,560. He suggested that the contract be submitted to the Director of Inspections for review, to determine if the contract is sufficient to obtain a Certificate of Occupancy for 22 Normandy Road.

Upon inquiry of Councilman Myers, Mr. Cogburn said adequate funds would be available to complete the repairs at 22 Normandy Road through the sale of another house owned by Mrs. Gage, said sale to close on July 15, 1984.

Corporation Counsel Slawter said Mr. Lem Moore, Director of Inspections, is out of town on City business and had left three questions to be answered relative to 22 Normandy Road. He said the questions were (1) Is the general contractor State Licensed? (2) Has Mr. Cogburn or Mrs. Gage delivered to the Inspections Department, a written request that the building permit issued to John Stewart Construction Company, be cancelled? (3) Does the contract contain a general statement that the house will be rebuilt to minimum requirements of the North Carolina State Building Code? Statement that an itemized list of repairs to be made would not be sufficient.

Mr. Cogburn said it is the intention of the property owner and the contractor to bring the house up to code standards of the City of Asheville. He said Mr. Jones is familiar with the City of Asheville and the North Carolina State Building Codes.

Upon questioning, Mr. Jones, Contractor, said he holds a miscellaneous license allowing him to do work up to $30,000.

After discussion, Councilwoman Price moved to continue the discussion relative to 22 Normandy Road until June 5, 1984, with the provision that Attorney Cogburn and Corporation Counsel Slawter meet to reach an agreement whereby minimum requirements are outlined in the proposed contract by Mr. Jones, and to determine whether or not a building permit can be obtained by Mr. Jones for the completion of the work at 22 Normandy Road, and to assure that all questions of Mr. Moore, Director of Inspections, are answered; further that a report be given by Corporation Counsel Slawter to members of Council at the May 29, 1984 pre-Council meeting. This motion was seconded by Councilman Boland and carried unanimously.

PROCLAMATION - "PROJECT GRADUATION AWARENESS WEEK" - WEEK OF MAY 21, 1984

Mayor McDevitt read a proclamation proclaiming the week of May 21, 1984 as "Project Graduation Awareness Week". He said this proclamation was requested by Mrs. Robert T. Bayer, President of MADD, Mothers Against Drunk Drivers.

PROCLAMATION - "NATIONAL TOURISM WEEK" - WEEK OF MAY 27, 1984

Mayor McDevitt read a proclamation proclaiming the week of May 27, 1984 as "National Tourism Week".

Mayor McDevitt presented the proclamation to Mr. Doug Stafford with the Asheville Area Chamber of Commerce.

PUBLIC HEARING - ADOPTION OF EROSION CONTROL ORDINANCE

ORDINANCE NO. 1442 - EROSION CONTROL ORDINANCE

5. A public hearing was held concerning the adoption of a new City of Asheville Erosion Control Ordinance.

Mayor McDevitt opened the public hearing at 4:36 p.m.

The City Manager presented the notice to the public, setting a time and date for the public hearing and the affidavit of publication.

Mayor McDevitt said the City's present Erosion Control Ordinance does not comply with revised State requirements, and this ordinance will allow for those revisions.

City Manager said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

A discussion was held relative to the proposed ordinance being more restrictive than State requirements.

Mayor McDevitt closed the public hearing at 4:40 p.m.

Councilwoman Frank moved for the adoption of Ordinance No. 1442. This motion was seconded by Councilwoman Price.

Corporation Counsel Slawter recommended that the ordinance be amended to make the effective date June 30, 1984.

Councilwomen Frank and Price agreed to amend their motion for adoption of the ordinance to include an effective date of June 30, 1984.

On a roll call vote of 7-0, Ordinance No. 1442 passed on first reading.

Councilman Boland moved for the adoption of Ordinance No. 1444. This motion was seconded by Councilwoman Frank.

On a roll call vote of 7-0, Ordinance No. 1444 passed on first reading.

RESOLUTION NO. 84-91 - RESOLUTION AUTHORIZING THE MAYOR ON BEHALF OF THE CITY OF ASHEVILLE TO EXECUTE A CONTRACT WITH THE WESTERN NORTH CAROLINA REGIONAL AIR POLLUTION CONTROL AGENCY FOR THE PROVISION OF INSPECTION SERVICES WITH REGARDS TO THE HEATING CODE OF THE CITY OF ASHEVILLE

8. Consideration was given to a resolution authorizing the Mayor on behalf of the City of Asheville to execute a contract with the Western North Carolina Regional Air Pollution Control Agency for the provision of inspection services with regards to the Heating Code of the City of Asheville.

The City Manager said members of Council were previously furnished copies of the resolution and it would not be read in its entirety.

NOTE: The City of Asheville has adopted the North Carolina State Building Code, Volume III, Heating, as the City's Heating Code. Pursuant to N. C. General Statute 160A-412 the City is responsible for enforcement of State and local laws relating to the installation of heating systems and air conditioning systems, and provides that the enforcement of these regulations may be delegated (Part 1 of Article 20 of Chapter 160A). This resolution will authorize the Mayor to execute a contract with the Western North Carolina Regional Air Pollution Agency for the provision of inspection services as required of the City by Part 5 of Article 19 of Chapter 160A of the North Carolina General Statutes.

Upon motion of Councilwoman Frank, seconded by Councilman Boland, Resolution No. 84-91 was unanimously adopted.

Complete text of Resolution No. 84-91 will be found in Resolution Book No. 14 at Page ~~334~~ and ~~335~~. 345 - 346

APPROVAL OF SIGN PERMIT - HOLIDAY INN ON AIRPORT ROAD

9. Consideration was given to a motion approving a sign permit for Holiday Inn on Airport Road.

Mayor McDevitt said Holiday Inn has requested approval of a sign permit for an identification sign to be located on Airport Road. This sign permit requires the approval of City Council because the sign will be situated closer than 600° from a limited access highway.

Verl Emrick, Director of Planning, said this sign would be for the new Holiday Inn on property leased by them from the City. He said this sign would be their new logo sign and would be a principle identification sign containing 315 square feet and would be 42 feet in height.

ORDINANCE NO. 1443 - AN ORDINANCE AMENDING CHAPTER 12, FIRE PREVENTION AND PROTECTION, OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE

6. Consideration was given to an ordinance amending Chapter 12, Fire Prevention and Protection, of the Code of Ordinances of the City of Asheville.

Mayor McDevitt said the purpose of this amendment will be to update the City's Fire Prevention Code with the State Fire Prevention Code and will also provide revenues through charging for permits for the regulation of certain occupancies.

The City Manager said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Chief Causey, of the Asheville Fire Department, said one of the major differences in the proposed fire code would be that no smoking would be allowed in retail businesses employing over 25 with a capacity of 200 people, on elevators, and wherever fire marshalls determine that smoking would be hazardous.

A discussion was held among Council members relative to receiving input from retail businesses as to the no smoking provision.

Councilwoman Price moved for the adoption of Ordinance No. 1443. This motion was seconded by Councilman Bissette.

On a roll call vote of 7-0, Ordinance No. 1443 passed on first reading.

By consensus, the Council requested that the City Manager, Chief Ball, and Chief Causey undertake a survey and sampling of retail businesses in connection with the no smoking portion of the ordinance prior to the second reading.

ORDINANCE NO. 1444 - AN ORDINANCE AMENDING CHAPTER 8, ARTICLE IV OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE (HEATING CODE)

7. Consideration was given to an ordinance amending Chapter 8, Article IV, of the Code of Ordinances of the City of Asheville (Heating Code).

The City Manager said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

NOTE: The City of Asheville desires to enter into a contract with the Western North Carolina Regional Air Pollution Control Agency to provide for inspection services enforcing the Heating Code of the City of Asheville as found in Article IV of Chapter 8 of the Code of Ordinances of the City of Asheville. It is necessary to amend Article IV of Chapter 8 of the Code of Ordinances of the City in order to effect the terms and conditions of the above-referenced contract.

A. Motion scheduling a public hearing to consider designating the Historic Resources Commission as the inspection agent of the City of Asheville for facade preservation easements for June 19, 1984.

HIGHLIGHTS: The City of Asheville and owners of historic properties are mutually desirous of preserving, protecting and restoring the historic, aesthetic and cultural character of buildings within the historic districts by the granting of and acceptance of facade preservation easements. This will empower the Historic Resources Commission to act as agent in the inspection of facade preservation easements according to the terms, conditions, and restrictions set forth in such easements accepted by the City of Asheville.

FISCAL IMPACT: None

B. Motion scheduling a public hearing relative to amending the Zoning Ordinance concerning Article 13, Montford Historic District for June 19, 1984.

HIGHLIGHTS: This ordinance will clarify the procedures in obtaining a Certificate of Appropriateness for properties located in the Montford Historic District.

FISCAL IMPACT: None

C. Motion scheduling a public hearing relative to a site plan of the proposed "Beechwood" Planned Unit Development to be located at the end of Victoria Place for June 19, 1984.

HIGHLIGHTS: The Asheville Planning and Zoning Commission at a meeting held May 9, 1984, reviewed the site plan of the proposed "Beechwood" Planned Unit Development to be located at the end of Victoria Place. The plan was prepared by Frank McGahren, Engineer, for Mrs. Penny Blount, First Development, Inc., Developer, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of the site plan to City Council subject to compliance with the Erosion Control Ordinance.

FISCAL IMPACT: None

D. Motion scheduling a public hearing relative to rezoning property located on Emma Road for June 19, 1984.

HIGHLIGHTS: The Asheville Planning and Zoning Commission at a meeting held May 9, 1984, considered the request of Mr. Donald E. Ledford et al that Ward 12, Sheet 7, Lots 88, 2, 4, 5, 6, 7, 8, and 190 be rezoned from LI Light Industrial District to R-5 Residential District. The property is located on Emma Road. After review and discussion, the Commission voted to recommend to City Council that Ward 12, Sheet 7, Lots 88, 2, 4, 5, 6, 7, and 8, be rezoned from LI Light Industrial District to R-5 Residential District. (The Commission did not include Lot 190 in its recommendation).

FISCAL IMPACT: None

After discussion, Councilwoman Price moved to approve the sign permit for Holiday Inn with the exception that the sign be 40 feet in height rather than 42 feet in height. This motion was seconded by Councilwoman Frank.

Several members of Council noted that Holiday Inn might have a problem with lowering the sign 2 feet and felt Council should not put a 40 foot restriction on the sign.

After discussion, Councilwomen Price and Frank withdrew their motion.

Councilwoman Price then moved that the sign permit for Holiday Inn on Airport Road be approved at the 40 foot height unless in the discretion of the City Manager, he determines through consultation with Holiday Inn representatives, that there is some engineering or other reasons which would necessitate the sign being at the 42 foot height level, at which case the City Manager is authorized to permit the sign to be installed at the 42 foot height. This motion was seconded by Councilman Myers and carried unanimously.

The City Manager said he would report his findings relative to the sign height at next week's meeting.

Councilman Boland again requested that Council have a work session relative to providing more restrictions in the Sign Ordinance. He said he would prefer that Council have the work session prior to consideration of another sign permit.

Several members of Council indicated that any sign permit request should be brought to the attention of Council, and that Council would schedule a work session as soon as possible to discuss more restrictions in the Sign Ordinance.

APPROVAL OF CONSENT AGENDA

10. Consideration of a motion approving the consent agenda.

NOTE: The following items are of a routine nature and they have been previously reviewed by the members of the City Council. Therefore, by unanimous vote to approve these items, the City Council may, pursuant to the procedures established in Ordinance No. 1008, adopt all of the items with one motion without the full reading and/or separate motion adopting each individual item. Upon the request of a citizen, a member of the City Council, and/or a member of the City staff, any single item scheduled for approval on the consent agenda may be considered separately.

Asheville Housing Authority	Condemnation of R. D. Alexander property (East End/Valley Street)
Asheville Housing Authority	Condemnation of Ellsworth Morris, Sr. property (East End/Valley Street)

Mayor McDevitt referred the lawsuits to the Corporation Counsel for action.

APPROVAL OF SETTLEMENT - MARY ANN CHANCE - STORM DRAINAGE

Councilwoman Price moved to authorize the City Manager to sign a Release agreement with Mary Ann Chance and Mr. Barnes regarding an easement along their common boundary lines, total amount of agreement being $2,360. for expenditures to repair the storm drainage line that is currently on their line and in return for which they will release the City from any further potential responsibility in the future with regard to that easement. This motion was seconded by Councilwoman Frank and carried unanimously.

Mayor McDevitt requested that the Corporation Counsel draft an appropriate letter to Mrs. Chance for his signature acknowledging the City's intent.

INQUIRY OF COUNCILWOMAN PRICE - ANIMAL ORDINANCE

Councilwoman Price requested that the Corporation Counsel review the City's existing Animal Ordinance to determine the number of cats that are allowed by one owner. She said if no limit is provided in the Animal Ordinance, that the City Attorney make a recommendation to Council in the spirit of the Animal Ordinance.

RECOGNITION OF CORPORATION COUNSEL SLAWTER

Mayor McDevitt noted that Corporation Counsel Slawter has served for the past year as President of the 28th Judical District Bar Association for attorneys in Buncombe County. He said Corporation Slawter has done a first-rate job in his association with the Bar.

CONTINUATION OF EXECUTIVE SESSION

Councilwoman Frank moved to continue Council's executive session. This motion was seconded by Councilman Myers and carried unanimously.

Larry McDevitt
MAYOR

Marian F. McLean
CITY CLERK

E. Motion scheduling a public hearing relative to rezoning property located on Ardmion Road for June 5, 1984.

HIGHLIGHTS: The Asheville Planning and Zoning Commission at a meeting held May 9, 1984, considered the request of Dr. Robert J. Scully that Ward 1, Sheet 4, portion of Lot 56, be rezoned from R-3 Residential District to OI Office Institutional District. The property is located on Ardmion Road. After review and discussion, the Commission voted to recommend to City Council that Ward 1, Sheet 4, portion of Lot 56, be rezoned from R-3 Residential District to R-4 Residential District.

FISCAL IMPACT: None

Upon motion of Councilman Myers, seconded by Councilwoman Frank, the consent agenda was unanimously approved.

ORDINANCE NO. 1445 - BUDGET ORDINANCE AMENDMENT APPROPRIATING INSURED COSTS ASSOCIATED WITH FREEZE DAMAGE TO CITY HALL

Consideration was given to a budget ordinance amendment to provide an appropriation to cover the insured costs associated with freeze damage to City Hall.

The City Manager read the ordinance stating that this would provide an appropriation to cover the insured costs associated with freeze damage to City Hall which occurred December 24, 1983. He said the uninsured costs of approximately $3,000 will be absorbed in the Parks Maintenance Operating Budget.

Councilwoman Price moved for the adoption of Ordinance No. 1445. This motion was seconded by Councilman Myers.

On a roll call vote of 7-0, Ordinance No. 1445 passed on first and final reading.

Complete text of Ordinance No. 1445 will be found in Ordinance Book No. 10 at Page 182. 148

CLAIMS -KAREN RICE (WATER) -MARION BYERS (METER READERS) - HAZEL EDWARDS (FIRE) - DONNA GONZALES (STREETS) - DEBBIE BRACKETT (TRAFFIC ENGINEERING)

The City Manager presented claims received from Karen Rice, Marion Byers, Hazel Edwards, Donna Gonzales and Debbie Brackett.

Mayor McDevitt referred the claims to the Corporation Counsel for investigation and recommendation.

LAWSUITS - ASHEVILLE HOUSING AUTHORITY - CONDEMNATION OF PROPERTIES

The City Manager said the City was served with summonses in connection with the following lawsuits, in which the City is a defendant:

Asheville Housing Authority	Condemnation of Alice Steele property (East End/Valley Street)
Asheville Housing Authority	Condemnation of Frank Stevens property (East End/Valley Street)

CITY OF ASHEVILLE

ASHEVILLE, NORTH CAROLINA

May 29, 1984

OFFICE OF
CITY MANAGER

The Honorable Mayor and
Members of City Council
City of Asheville
Post Office Box 7148
Asheville, North Carolina 28807

Dear Mayor and Members of Council:

Submitted herewith are the budget estimates for Fiscal Year 1984/85, which begins July 1, 1984. The budget was prepared according to the provisions of the Local Government Budget and Fiscal Control Act, as amended.

In accordance with this act, a copy of the budget will be filed in the office of the City Clerk, "where it shall remain available for public inspection until the budget ordinance is adopted." The act also requires that the City Clerk publish a statement that the budget has been submitted to the governing board and is available for public inspection in the City Clerk's Office. The statement shall also give notice of the time and place of a required public hearing. As a matter of local practice, the budget ordinance is given three readings before adoption. The law requires that it be adopted "not earlier than ten days after the budget is presented to the board and not later than July 1." Changes may be made in the budget at any of the three readings.

While this submission is the culmination of a process which began in January, 1984 and has involved the City Council and staff, the budget reflects the results of policies of previous councils and the decisions made in this budget will affect future budgets. The recommended budget reflects the staff's perception of Council policies and priorities. There are some unresolved decisions which will require Council action before final adoption. These items will be detailed below. Significant facts regarding the recommended budget are outlined as follows:

I. Major Items Included in the Budget

The Fiscal 1984/85 Annual Operating Budget of the City of Asheville is balanced as presented and reflects the following significant decisions:

Tuesday, May 29, 1984 at 4:00 p.m.

Regular Meeting

Present: Mayor Larry McDevitt, Presiding; Vice-Mayor Wilhelmina Bratton; Councilwomen Mary Lloyd Frank and Norma T. Price; Councilmen Gordon Myers, Walter R. Boland, and Louis Bissette; Corporation Counsel William F. Slawter; Acting City Manager William F. Wolcott, Jr.; Deputy City Clerk Carol Hensley.

Absent: None

INVOCATION

The invocation was given by Councilman Louis Bissette.

APPROVAL OF THE MINUTES

1. Approval of the minutes of the May 22, 1984 meeting.

Upon motion of Councilwoman Price, seconded by Councilman Boland, the minutes of the May 22, 1984 meeting were unanimously approved as submitted.

PRESENTATION OF BUDGET - FISCAL YEAR 1984-85 - PUBLIC HEARING SCHEDULED

2. The City Manager said according to North Carolina General Statutes, that on or before June 1 he is required to submit to the Council a balanced budget. He said the budget had been prepared by Bob Wurst through the cooperative efforts of all departments. He recognized Bob Wurst for his efforts on the budget.

Bob Wurst, Director of Audit and Budget, presented copies of the recommended budget and a detailed line item budget to members of Council and read the following budget message:

3. Fringe Benefits - The City's fringe benefits for employees are continued. Several increases in the budgeted costs of these programs should be noted. The employer's cost of F.I.C.A. increased from 6.7 to 7.0 percent of covered payroll effective January 1, 1984. The cost to the City for those employees in the Local Government Employees Retirement System increased from 10.79 to 10.82 percent of covered payroll. The cost of group health insurance is estimated to increase by approximately 44% during Fiscal 1984/85. The cost of this increase is included in the budget with the assumption that the City absorb the full increase and that it is not passed on to employees. The City staff will be studying various cost reduction alternatives for our health care programs for Council consideration.

4. Other Significant Appropriations

   a. An appropriation for the General Debt Service/Capital Reserve in the amount of $1,802,498 is included. This represents the equivalent of $.12 of the tax rate. Of this amount $989,510 is required to pay existing debt. This leaves a provision for general capital reserves of $812,988.

   b. A General Fund contingency of $250,000 is recommended.

   c. A provision for attrition of $120,000 is included. This is the estimated savings for budgeted positions that become vacant during the year. When any position does become vacant, it is evaluated to determine need prior to being filled.

C. Items Requiring Council Decision

1. Half Cent Sales Tax - As noted above, the revenue for the additional half cent sales tax is not included in the budget. An amendment to the budget may be made at any time to appropriate this new funding source. In addition, the Council will need to consider whether it wishes to petition the Local Government Commission to waive the requirement that 40% of the revenue be earmarked for water or sewer improvements.

2. Parks & Recreation Transfer - Pending final decisions regarding details of the transfer of those parks to the County as part of the Water Agreement, the budget includes the full appropriations for those activities scheduled for transfer. As soon as the final decisions are made, the budget will be amended resulting in a net savings of $173,233.

A. Revenues

1. Ad Valorem Tax - The General Fund maintains an ad valorem tax rate of $.59 per $100.00 assessed valuation based on a total estimated valuation of $1,597,959,711. Revenues are budgeted assuming a 94% collection of the levy.

2. Half Cent Sales Tax - The estimated revenue to the City for the additional half cent sales tax approved by the Buncombe County Commission on May 15, 1984 is not included. This action will generate an estimated Fiscal 1984/85 revenue to City of approximately $828,000 of which 40% or $331,200 must be earmarked for water or sewer improvements. This will leave a balance of approximately $496,800 for use as Council determines.

3. Fund Balance - The budget includes an appropriation of fund balance of $1,114,077 and leaves an estimated unappropriated fund balance for cash reserve of $1,099,441. This represents only about two weeks working capital.

4. Ad Valorem Tax/Annexation - A one time revenue of $385,040 is included in the General Fund which represents 1983 ad valorem taxes payable in 1984 for the South Buncombe annexation.

5. Other Revenues - All other revenue estimates generally reflect normal growth with those affected by annexation so adjusted.

B. Appropriations

1. General - All general levels of service are maintained in the operating budget as presented. Several departments reduced requests during the review process. These reductions should not affect service delivery.

2. Salaries & Wages - The budget as presented includes a continuation of the City's Pay Plan which includes the Longevity Pay Program and Performance Pay Program. A scale adjustment of five percent, effective July 1, 1984, is also included. An appropriation for a study of the City's pay and position classification plans is included in the General Revenue Sharing Budget.

capital needs of over $25 million during the next five years. These are not new or additional facilities or equipment but maintenance or replacement of existing assets. The recommended capital budget provides funding for $3.2 million of the $6.5 million request. Besides basic equipment replacement, only $609,000 is provided for street paving, $142,300 is provided for sidewalk replacement and $132,000 for stone street resurfacing. No funding is provided for storm drainage improvement.

The Debt Service/Capital Reserve funding provided in the operating budget is a major first step toward meeting the City's capital needs. It will not, however, meet those needs on a pay-as-you-go basis. The Council should consider the second step and adopt a long range capital financing plan. Capital needs are easy to ignore and postpone, but when that happens poorly maintained streets, sidewalks and public facilities result in a very unattractive place to live and work.

Outlook

This budget is balanced with a continuation of City services and no tax increase. It should be noted, however, that while the budget has benefitted from increased revenues from annexation and the economic recovery, it is still balanced by use of over $1 million in fund balance and the receipt of a prior year ad valorem tax of almost $400,000. The City staff will make every effort possible to continue to seek ways to reduce costs and maximize revenues. We should continue to look at duplicated or unnecessary services, programs and activities and be aware during the year of the effect of each decision on this budget and future budgets.

Conclusion

The budget is simply a plan of operation for the fiscal year expressed in terms of dollars. The plan is prepared by management and presented to Council for approval. When approved by Council, it is management's responsibility to carry out the plan as effectively and efficiently as possible. The plan must be fiscally responsible, and it must be flexible and capable of change to meet the unexpected. The plan may be modified at any time to reflect changes in goals or objectives.

Special thanks are extended to the Council for their time spent in the preliminary budget process. Also, special thanks are due to the department and division heads and City staff who have assisted in this year's budget process.

Respectfully submitted,

William F. Wolcott, Jr.

William F. Wolcott, Jr.
Acting City Manager

3. Outside Agencies - Outside agency funding is included in the budget at current funding levels as has been past policy. Requests have been received as follows:

	Current Funding	Requested Funding	Increase
Chamber of Commerce	31,000	33,742	2,742
Bunc. Co. Rescue Squad	20,000	20,000	-0-
Com. Relations Council	34,515	40,071	5,556
Opportunity Corporation	-0-	10,000	10,000
Total	85,515	103,813	18,298

Council should consider these increases and the new request. Decisions on these requests should be made during budget deliberations after formal presentation of the budget.

4. Asheville Transit Authority - The recommended budget includes funding at the Fiscal 1983/84 level as with other outside agencies. The current budget includes the anticipated receipt of UMTA reimbursement funds for 1984/85 of $400,000 and a total appropriation of $868,545 with a net city cost of $468,545. The Transit Authority request will require an adjustment to the budget of the net city cost to $595,286 or an increase of $126,741.

5. Fire Department Ladder Company - The Fire Department has requested a budget increase in the amount of $188,018 to man an additional ladder company. This represents an increase of 12 full-time positions. This request is not included in the recommended budget. The staff recommendation is that the Council reconsider closing Station #3 and utilize presently approved manpower to man the ladder company.

II. Capital Budget

A summary of the recommended Fiscal 1984/85 capital budget is included in this document. The City has three basic sources of capital funds; General Debt Service/Capital Reserves, General Revenue Sharing Funds and Community Development Block Grant Funds. Community Development funds are currently earmarked for downtown redevelopment. Excluding Community Development, the department heads submitted capital requests for Fiscal 1984/85 totaling $6.5 million, and the City's Five Year Capital Budget identified

ORDINANCE NO. 1441 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED (REZONING PROPERTY BETWEEN SOUTHERN RAILWAY AND SWEETEN CREEK ROAD).

5. Consideration was given to the second reading of Ordinance No. 1441 - An ordinance amending Ordinance No. 322, known as "An Ordinance Providing For the Zoning of the City of Asheville," as amended (Rezoning Property Between Southern Railway and Sweeten Creek Road).

Mayor McDevitt said this ordinance was previously read on first reading and would not be reread in its entirety unless there was a specific request to do so.

On a roll call vote of 7-0, Ordinance No. 1441 passed on second reading.

ORDINANCE NO. 1442 - AN ORDINANCE ESTABLISHING A NEW CITY OF ASHEVILLE EROSION CONTROL ORDINANCE.

6. Mayor McDevitt announced it was the consensus of Council to postpone the second reading of Ordinance No. 1442 until June 5, 1984, due to current revisions being made in the ordinance.

ORDINANCE NO. 1443 - AN ORDINANCE AMENDING CHAPTER 12, FIRE PREVENTION AND PROTECTION, OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE.

7. Consideration was given to the second reading of Ordinance No. 1443 - An Ordinance Amending Chapter 12, Fire Prevention and Protection, of the Code of Ordinances of the City of Asheville.

Mayor McDevitt said this ordinance was previously read on first reading and would not be reread in its entirety unless there was a specific request to do so.

Chief Causey of the Asheville Fire Department said, at the request of Council at last week's meeting, the Asheville Fire Department conducted a survey of 100 stores involving both large and small retail establishments. He said this survey showed 23 businesses against the ordinance provision for no smoking in retail establishments; 25 were neutral; and 52 were for the ordinance provision.

A discussion was held relative to amending the ordinance relating to the provision of no smoking in retail business establishments.

Several members of Council expressed concern about government regulating business establishments.

Chief Causey said he did not feel the proposed ordinance should be delayed because of concerns in the no smoking provision. He said it would not concern him if the provision is entirely deleted, leaving the "No Smoking" regulation at the Fire Marshall's discretion as specified in the NFPA Code.

Mrs. Walter Smith spoke in support of the ordinance in dealing with the no smoking provision. She said that she supported the provision not only due to safety, but as a health hazard also. She requested that Council include grocery stores and drug stores in the ordinance.

Mayor McDevitt requested that members of Council be furnished with a line item summary of the Water budget and a summary of the totals of the various line items.

Upon inquiry of Mayor McDevitt, Bob Wurst, Director of Audit and Budget, said that each additional percent collected of the present tax levy would yield $88,622.00. He said as of April, 1983, 92.3% had been collected for last year's tax levy.

Upon motion of Councilman Boland, seconded by Councilwoman Price, a public hearing relative to the 1984-1985 budget was scheduled for June 12, 1984.

ORDINANCE NO. 1439 - AN ORDINANCE AMENDING ORDINANCE NO. 322, "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED (WORDING AMENDMENT - PROFESSIONAL OFFICES IN R-3 DISTRICT).

3. Consideration was given to the second reading of Ordinance No. 1439, an ordinance amending Ordinance No. 322, "An Ordinance Providing for the Zoning of the City of Asheville," as amended (Wording Amendment - Professional Offices in R-3 District).

Mayor McDevitt said this ordinance was previously read on first reading and would not be read in its entirety unless there was a specific request to do so.

At the request of City Council at the May 22, 1984, meeting, Mr. Emrick submitted an amendment to the ordinance which details specific streets whereby the provisions of this ordinance would be allowed.

Councilwoman Price moved to amend Ordinance No. 1439 as read by Mr. Emrick. This motion was seconded by Councilwoman Frank and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1439 passed on second reading as amended.

ORDINANCE NO. 1440 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED (GRANTING OF VARIANCES/GROUP DEVELOPMENTS).

4. Consideration was given to the second reading of Ordinance No. 1440 - An ordinance amending Ordinance No. 322, known as "An Ordinance Providing for the Zoning of the City of Asheville," as amended (granting of variances/group developments).

Mayor McDevitt said this ordinance was previously read on first reading and would not be read in its entirety unless there was a specific request to do so.

On a roll call vote of 7-0, Ordinance No. 1440 passed on second reading.

After discussion, it was the consensus of Council to refer this matter to the Community Services Committee to review the entire existing Animal Control Ordinance.

CLAIMS - ALAN BERLAGE (STREETS); RAMON FROMMER (REC. PARK); VERNA NEWTON (SEWER); JAMES HARRIS (SANITATION); JERRY HIGGINS (STREETS); WILLIAM BOWERS (WATER); JOHN BALL (INSPECTIONS); AND MARY LOU BLACK (STREETS).

The City Manager presented claims received by the City of Asheville from the following individuals: Alan Berlage, Ramon Frommer; Verna Newton; James Harris; Jerry Higgins; William Bowers; John Ball; and Mary Lou Black.

Mayor McDevitt referred the claims to the Corporation Counsel for his investigation and recommendation.

RALPH BISHOP - COMMENTS RELATIVE TO J. C. HALL

Ralph Bishop appeared before the Council relative to former Police Chief J. C. Hall's disability pension.

EXECUTIVE SESSION

Upon motion of Vice-Mayor Bratton, seconded by Councilman Myers, the City Council adjourned to go into Executive Session.

Gay McDevitt
Mayor

William F. McKenzie
City Clerk

After discussion, Councilman Bissette moved to amend Ordinance 1443 by deleting Section 12.26 (A)(1) and to add the following:

Section 12.22. Smoking Prohibited in Specified Public Spaces.

A. In addition to the prohibitions against smoking in certain places pursuant to Section 3-1.1.11 of the NFPA Code, no person shall smoke or carry a lighted cigar, cigarette, pipe or match, or use any spark, flame, or fire producing device not specifically authorized by the Fire Marshall for use in such place in any of the following places.

1. Elevators. Elevators, regardless of capacity, in any public place.

2. Public and Private Hospitals. Smoking is permitted only in waiting rooms, lounge areas, offices, and restaurants; smoking also may be allowed in a patient's room with permission of the attending physician.

Further, that the section numbers in the ordinance be changed as outlined by the Corporation Counsel. This motion was seconded by Councilman Myers and carried on a voice vote of 5-2 with Councilwomen Frank and Price voting "No."

On a roll call vote of 7-0, Ordinance No. 1443 passed on second reading as amended.

Councilwoman Price requested that definitions be clarified in the ordinance prior to third reading.

ORDINANCE NO. 1444 - AN ORDINANCE AMENDING CHAPTER 8, ARTICLE IV OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE (HEATING CODE)

8. Consideration was given to the second reading of Ordinance No. 1444 - an ordinance amending Chapter 8, Article IV of the Code of Ordinances of the City of Asheville (Heating Code).

Mayor McDevitt said this ordinance was previously read on first reading and would not be reread in its entirety unless there was a specific request to do so.

On a roll call vote of 7-0, Ordinance No. 1444 passed on second reading.

RESCHEDULING PUBLIC HEARING - MONTFORD HISTORIC DISTRICT.

9. Councilwoman Price moved to reschedule the public hearing on the Montford Historic District Amendment from June 19, 1984, to July 10, 1984. This motion was seconded by Councilwoman Frank and carried unanimously.

COUNCILWOMAN PRICE - REGULATION OF CATS INQUIRY.

Corporation Counsel Slawter reported that he had not been able to locate any ordinance or provision regulating the keeping of cats in the City of Asheville.

3) From CBD, Central Business District to CG, Commercial General District: He said this is located on Montford Avenue near the Montford Grocery and the Peddler Steak House. He listed the lots to be rezoned CG, Commercial General District by the proposed ordinance.

Mr. Jack Stevens, Attorney for Highland Hospital, said Highland Hospital had no objections to a portion of Lot 46, approximately a 50-75 foot strip, fronting Pearson Drive, being rezoned to R-3, Residential District; however, they request that the remaining portion be left as is presently zoned - OI, Office Institutional.

The following residents and property owners spoke in opposition to the proposed areas to be rezoned:

- Roberta Widman
- Mary Duckworth
- Hester Evans
- Lucille Ray (Also speaking for Mrs. Burgess and Mrs. Brooks)
- Bill Duckworth
- Judy Carver
- Helen, Robert, and Richard Gray
- Mac Swicegood
- Gary Gorman
- Shirley Dosier
- Brenda Scounyers

The following residents and property owners spoke in support to the proposed areas to be rezoned:

- Mary Jo Brezney
- Ellen Clark Sayer
- Mrs. Blankenship (Also read list of others who could not attend the meeting - J. F. Shepherd, Ernest Holden, John and Sonya Whitman, Ruth Lucas, Mr. McClellen, and J. Don Blakenship)
- Dorothy Countryman
- Doug Swaim (Montford Planning Committee)
- Scott Rogers, Director, ABCCM
- Carolyn Humphries, Director, Historic Resources Commission
- Daphne Hooker
- Jerry Snow
- Keith Shepherd
- Barbara Sayer
- Ron Mach
- Jim Cavener

Mrs. Elizabeth Graham questioned the planned use for upper Montford and the lots bordering on Cherry Street saying that this could become a problem if reduced to a lower zoning. She felt some sort of compromise should be made to rezone the property on Cherry Street, known as the Gudger Property, to Commercial General to avoid future problems with the property.

Regular Meeting

Present: Mayor Larry McDevitt, Presiding; Vice-Mayor Wilhelmina Bratton; Councilwomen Mary Lloyd Frank and Norma T. Price; Councilmen Gordon Myers; Walter R. Boland, and Louis Bissette; Corporation Counsel Patsy Brison; Acting City Manager William F. Wolcott, Jr.; Acting City Clerk Margaret Messer.

Absent: None

INVOCATION

The invocation was given by Councilwoman Price.

APPROVAL OF THE MINUTES

1. Consideration was given to approval of the minutes of the May 29, 1984 meeting.

Upon motion of Councilman Bissett, seconded by Councilwoman Price, the minutes of the May 29, 1984 meeting were unanimously approved as submitted.

PUBLIC HEARING - REZONING PROPERTY LOCATED IN MONTFORD COMMUNITY

ORDINANCE NO. 1447 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED (PROPERTY LOCATED IN MONTFORD COMMUNITY)

2. A public hearing was held relative to rezoning property located in the Montford Community.

Mayor McDevitt opened the public hearing at 4:03 p.m.

The City Manager presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Planning Director, distributed maps to members of Council, and said that notification to affected property owners had been done as requested by the City Council.

Mr. Emrick said the areas to be rezoned were as follows:

1) From OI Office Institutional District to R-3 Residential District: He said this property is bordered by Montford, Pearson, Santee, and Watauga Streets. He listed the lots to be rezoned R-3, Residential District by the proposed ordinance.

2) From CBD Commercial Business District to CH Commercial Highway District: He said this is bordered by Flint, Starnes, Broadway, and Cherry Streets. He listed the lots to be rezoned CH, Commerical Highway District by the proposed ordinance.

For the benefit of Council, Mr. Emrick again reviewed the proposed zoning changes as presently included in the ordinance.

At the request of Mayor McDevitt, Mr. Emrick listed the uses not allowed in the Commercial General District but are allowed in the Central Business District.

Vice Mayor Bratton moved that the staff be directed to pull together a comprehensive plan for the City and that the neighborhood plans for Montford, East End, North Asheville, South Asheville, West Asheville, and Kenilworth be included, and that action on the ordinance be postponed until such time as the plan is presented to the City Council.

This motion was seconded by Councilman Myers and failed on a 2-5 voice vote with Mayor McDevitt, Councilman Bissette, Councilman Boland, Councilwoman Price, and Councilwoman Frank voting "no."

Councilwoman Price moved that the ordinance be amended to reflect the following:

"That a portion of Lot 46 measuring 150 feet deep from Pearson Drive be rezoned to R-3, Residential District. Further, said 150 foot distance be used to establish a line parallel to Pearson Drive which will establish the eastern border of that portion of Lot 46 which will be rezoned to R-3, Residential District." (Note: See Attached Map.)

This motion was seconded by Councilman Boland and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1447 passed on first reading, as amended.

Mr. Jack Stevens, Attorney for Highland Hospital, said that he felt his client would be comfortable with 150 feet, but not beyond that amount, but that he would be willing to look at the topography to determine if it would be practical to extend the 150 feet.

PUBLIC HEARING - REZONING PROPERTY ON ARDMION PARK

3. A public hearing was held relative to rezoning property on Ardmion Park from R-3 Residential District to R-4 Residential District.

Mayor McDevitt said this item had been discussed by the Council during the Pre-Council Meeting and at that time, the Council had learned of a prior Council's action with regard to this request. He said that it was the consensus of Council to postpone action on this request for two weeks to give Council an opportunity to thoroughly review the commitments made by the previous Council in adopting the Revelopment Plan for East End/Valley Street in 1978. However, he said, the Council would go ahead with the public hearing for the convenience of those who had come to the meeting.

Mayor McDevitt opened the public hearing at 6:29 p.m.

The City Manager presented the notice to the public setting the time and date of the public hearing and the affidavit of publication.

Mayor McDevitt thanked the participants for their orderly conduct in the hearing and asked for rebuttal comments from the public. Mayor McDevitt asked that comments be limited to one (1) minute.

The following individuals made rebuttal remarks:

- Susan Mayer
- Myra Fuller
- Bill Flynn
- Ellen Clark Sayer
- Mac Swicegood
- Daphyne Hooker
- Mildred Dicken
- J. Clifton and Shirley Dozier
- Gary Gorman
- Roberta Widman

Shirley Dozier addressed Council about problems she had been experiencing with prostitutes and bootleggers at her home at 77 Montford Avenue. She said they block the driveway and when she asks them to leave, they threaten shooting her and setting her home on fire. She said the Police did come and make the people leave and advised them to contact the Montford Community Club. She said this is the reason she supports the rezoning so she can sell and move out of the area.

Mayor McDevitt asked the City Manager to have Chief Hensley look into the problems Mrs. Dozier had been having.

Mr. Emrick answered general questions from members of Council relative to density levels and uses allowed and not allowed in the various zoning districts.

A discussion followed relative to a comprehensive plan for the entire city and a possible moratorium for the Montford area until such a plan could be presented. However, Mr. Emrick advised Council that it would take approximately 30 days to accomplish the legalities to put a moratorium in place.

Mr. Emrick advised Council that due to the level of detail required, it would take approximately 6 months for the staff to put together a draft of a comprehensive zoning plan for the entire city.

Mayor McDevitt closed the public hearing at 5:39 p.m.

Mayor McDevitt said copies of this ordinance were previously distributed to members of Council and the ordinance would not be read unless there was a specific request to do so.

Councilwoman Price suggested that some amendments be considered to the ordinance that would allow some conditional uses in the R-4, Residential District which would allow certain crafts or small activities where goods could be sold in neighborhood-type shopping that might be earmarked only for the Montford Area to provide neighborhood-type business that has been requested by the community, but only has a conditional use in that way.

2. We question whether the re-zoning is in accordance with the conditional uses which are permitted in R-4 for Mountainside Residences.

Finally, we raise these objections on behalf of our neighborhood:

Most of our people have grown up and lived in this community all of their lives; the concept of neighborhood has a real and deep meaning for them. It has been said by a prominent developer, that the ideal situation would be for everything east of Ardmiron should be residential, condominium, and apartments, and everything west of there including our community to South Charlotte Street, should be zoned for commercial use. This was a harsh statement, and does not regard people as being important. We feel that the re-zoning of this area would be the beginning of the process of losing our community and we respectfully request the council to reject it.

Will Burton

Mr. Jesse Ray, Sr. spoke in opposition to the proposed rezoning. He said that over 8 million dollars had been spent in the East End and that the residents had been encouraged by the Federal Government to say just how they wanted their community and the community had been unanimous in their decision for development of the area. He said the R-4 designation would increase the residential density level and would also allow mobile homes.

Mrs. Ralph Brown of 478 College Street spoke in opposition to the rezoning. She said that residents of the area were promised by a previous Council when the Redevelopment Plan for the East End was adopted that the area would remain residential.

Steve Brady spoke in support of the rezoning.

Ruby Young spoke in opposition to the rezoning.

Councilwoman Price moved to continue the public hearing without further advertisement until June 19. This motion was seconded by Councilman Boland and carried unanimously.

ORDINANCE NO. 1448 - AN ORDINANCE AMENDING SECTION 28-81.3 AND SECTION 28-81.4 OF ARTICLE IV, SPEED REGULATIONS, OF CHAPTER 28 OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE (Reduce Speed Limit On Murdock Avenue)

4. Consideration was given to an ordinance amending Section 28-81.3 and Section 28-81.4 of Article IV, Speed Regulations, of Chapter 28 of the Code of Ordinances of the City of Asheville (to reduce speed limit on Murdock Avenue).

Mayor McDevitt said copies of this ordinance were previously distributed to members of Council and the ordinance would not be reread unless there was a specific request to do so.

Jackie Schaur spoke in support of the proposed ordinance.

Councilwoman Price moved for the adoption of Ordinance No. 1448. This motion was seconded by Councilman Boland.

Dr. and Mrs. Robert Scully spoke in support of the rezoning saying that they did not wish to do anything that would be detrimental to the community. They said out of 27 acres in the area, only 12 have a potential for development. They said their plans are to make the best use of the land by developing a residential area at the northern end of the property and to construct professional offices on the southern portion.

Mr. Will Burton presented the following statement/recommendation to Council, which he said represented the neighborhood's view on the rezoning petition:

Honorable members of the City Council, to the Honorable Mayor, and Vice-Mayor.

As chairperson of the East End/Valley Street planning committee and as president of our community organization, I am here today along with a delegation from the community to oppose the request to rezone a portion of our neighborhood.

When our neighborhood was first selected for re-development by the city, we were assured by the city leaders at that time, that this area would always be a residential community of homes and neighbors. We became involved in the plan and organized a planning committee in an effort to guide our neighborhood and preserve it and, we did this acting on the good faith promise that the city made to us. "The longer a promise is made, the more real it becomes".

Several times over the course of the development, speculators and developers have come to the council and the community attempting to pursuade us to re-zone portions of our neighborhood and they have always stated that this was in the best interest of the community. We believe that we ourselves know what is in the best interest of the community, and in keeping with the democratic process, letting everyone know what is happening and giving everyone a voice, we as a neighborhood have always spoken with one voice. We commend the council for the way in which they have listened to us in the past.

On May 3, 1984, at the Stephen's Lee Center, there was a community meeting in which Dr. Sculley presented his proposal for a professional office in our community. There were two principal concerns raised:

1. The size of the area to be re-zoned.

We felt that in time other people might buy up land in this area and not be as sensitive to landscaping and the beautifying their facilities as Dr. Sculley.

2. Spot Zoning.

We felt that this whole area from (South Charlotte) Valley Street to Kenilworth is zoned R-3 residential and to change this area to R-4 would be an arbitrary action.

On June 4, 1984, the planning committee met and raised these additional objections:

1. This same type of property on the other side of the tunnel (Town Mountain) has an R-1 zoning, which is the most restrictive zoning there is.

On a roll call vote of 7-0, Ordinance No. 1443 passed on third and final reading, as amended.

Complete text of Ordinance No. 1443 will be found in Ordinance Book No. 10, pages ~~124-140.~~ 130-145.

22 NORMANDY ROAD - PROPOSED DEMOLITION

7. Corporation Counsel Brison reported that Pam Patterson, Staff Attorney, and Max Cogburn, Attorney for Mrs. Gage, had reached a mutually satisfactory agreement between the contractor and the property owner and also a satisfactory agreement between the City and Mrs. Gage.

Councilwoman Price moved to authorize the Mayor to sign an agreement between the City and Mrs. Gage. This motion was seconded by Vice Mayor Bratton and carried unanimously.

Attorney Cogburn thanked members of Council for their patience in dealing with this matter.

SIGN PERMIT - SHOWBIZ PIZZA, 34 TUNNEL ROAD

8. Consideration was given to a motion approving a sign permit for Showbiz Pizza for placement of an identification sign at 34 Tunnel Road.

Mr. Emrick, Director of Planning, said he would recommend approval of the sign permit.

Vice Mayor Bratton moved to approve a sign permit for Showbiz Pizza for placement of an identification sign at 34 Tunnel Road. This motion was seconded by Councilman Bissette and carried unanimously.

Councilman Bissette and Councilwoman Price were excused from the meeting at 7:30 p.m. They gave permission for "yes" votes to be recorded for them for the remaining items on the agenda.

RESOLUTION NO. 84-92 - RESOLUTION AUTHORIZING CONDEMNATION OF PROPERTY IN THE EAST/END VALLEY STREET COMMUNITY IMPROVEMENT PROGRAM

9. Consideration was given to a resolution authorizing condemnation of property in the East/End Valley Street Community Improvement Program.

Mayor McDevitt said copies of this resolution were previously distributed to members of Council and the resolution would not be read unless there was a specific request to do so.

Mr. Larry Holt, Deputy Director of the Housing Authority of the City of Asheville, said the City has executed a contract with the Housing Authority which requires the Housing Authority to provide acquisition and relocation services to the City. He said the following properties have been appraised; however, the Housing Authority has not been able to reach an agreement with the property owners due to the mortgage holders wanting all the compensation they can possibly get.

On a roll call vote of 7-0, Ordinance No. 1448 passed on first reading.

ORDINANCE NO. 1441 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOW AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED (PROPERTY LOCATED ON SWEETEN CREEK ROAD)

5. Consideration was given to the third and final reading of Ordinance No. 1441, an ordinance amending Ordinance No. 322, known as "an ordinance providing for the zoning of the City of Asheville," as amended (property located on Sweeten Creek Road).

Mayor McDevitt said this ordinance was previously read on first and second reading and would not be reread in its entirety unless there was a specific request to do so.

On a roll call vote of 7-0, Ordinance No. 1441 passed on third and final reading, as amended.

Complete text of Ordinance No. 1441 will be found in Ordinance Book No. 10, page ~~123~~ 128.

ORDINANCE NO. 1443 - AN ORDINANCE AMENDING CHAPTER 12, FIRE PREVENTION AND PROTECTION, OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE

6. Consideration was given to the third and final reading of Ordinance No. 1443, an ordinance amending Chapter 12, Fire Prevention and Protection, of the Code of Ordinances of the City of Asheville.

Mayor McDevitt said this ordinance was previously read on first and second reading and would not be reread in its entirety unless there was a specific request to do so.

Corporation Counsel Patsy Brison advised Council that the section numbers in the ordinance had been changed as requested by the Council at the May 29th meeting. She offered the following amendment to Section 1-7.3.2 (e):

"(e) Chapter 2 - "Definitions" of Phamphlet No. 1, NFPA Code shall be amended by the addition of the definition of the following term:

"Hazardous Materials - shall include, but not be limited to, flammable solids, flammable or combustible liquids, pyroxylin plastics, combustible metals, oxidizing agents, organic peroxides, flammable and non-flammable gases, irritating materials, etiologic agents, and materials or mixtures of materials which are toxic, corrosive, poisonous, radioactive, or explosive, all as defined in the Federal Register, and other products that may be life-threatening or present an undue fire hazard as deemed by the fire marshal when using the information presented in the NFPA Code as guidance."

Councilwoman Price moved to amend Ordinance No. 1443 as read by Corporation Counsel Brison. This motion was seconded by Councilman Bissette and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1439 passed on third and final reading, as amended.

Complete text of Ordinance No. 1439 will be found in Ordinance Book No. 10, pages ~~141-142.~~ 124 + 125 9/87

ORDINANCE NO. 1440 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED (Group Developments/Variances)

12. Consideration was given to the third and final reading of Ordinance No. 1440, an ordinance amending Ordinance No. 322, known as "an ordinance providing for the zoning of the City of Asheville," as amended (Group Developments/Variances).

Mayor McDevitt announced that Council had discussed postponing the second reading of Ordinance No. 1440 until June 19, 1984, to allow time for research to resolve a legal question relative to variances.

Councilman Boland moved to postpone the second reading of Ordinance No. 1440 until June 19, 1984. This motion was seconded by Vice Mayor Bratton and carried unanimously.

ORDINANCE NO. 1442 - AN ORDINANCE ESTABLISHING A NEW CITY OF ASHEVILLE EROSION CONTROL ORDINANCE

13. Mayor McDevitt announced that Council had discussed postponing the second reading of Ordinance No. 1442 until August 14, 1984. He said the State is willing to give this extension. He said that copies of the proposed ordinance would be sent to interested individuals and a work session would be arranged on the ordinance prior to the second reading.

Vice Mayor Bratton moved to postpone the second reading of Ordinance No. 1442 until August 14, 1984. This motion was seconded by Councilwoman Frank and carried unanimously.

ORDINANCE NO. 1444 - AN ORDINANCE AMENDING CHAPTER 8, ARTICLE IV OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE (Heating Code)

14. Consideration was given to the third and final reading of Ordinance No. 1444 - an ordinance amending Chapter 8, Article IV of the Code of Ordinances of the City of Asheville (Heating Code).

Mayor McDevitt said this ordinance was previously read on first and second reading and would not be reread in its entirety unless there was a specific request to do so.

On a roll call vote of 7-0, Ordinance No. 1444 passed on third and final reading.

Complete text of Ordinance No. 1444 will be found in Ordinance Book No. 10, page ~~143.~~ 146 + 147 9/87

Block/Parcel	Owner	Address
8/5	Bruce	Clemmons St. (Beeks St.)
8/12	Sullivan	Beeks Street

Upon motion of Councilman Myers, seconded by Councilwoman Frank, Resolution No. 84-92 was unanimously adopted.

Complete text of Resolution No. 84-92 will be found in Resolution Book No. 14, page ~~336~~. 347

BIDS - ONE (1) DIESEL ENGINE AND ONE (1) AUTOMATIC TRANSMISSION TO REPOWER AND REGEAR THE CITY'S 1964 AMERICAN LAFRANCE FIRE PUMPER

10. Consideration was given to bids for one (1) diesel engine and one (1) automatic transmission to repower and regear the City's 1964 American LaFrance Fire Pumper.

The City Manager said sealed bids were received on May 3, 1984 for one (1) diesel engine and one (1) automatic transmission to repower and regear the City's 1964 American LaFrance Fire Pumper. He presented a summary of the bid tabulation, and said that David Pruett, Superintendent of Motor Transport, has evaluated the bids and recommends the following:

Item A: Diesel Engine to Covington Diesel, Greensboro, N. C. for a Detroit Diesel Engine in the amount of $10,637.00, on the basis that this was the lowest bid meeting specifications and application requirements.

Item B: Automatic Transmission to Covington Diesel, Greensboro, N. C. for an Allison Automatic Transmission in the amount of $6,296.00 on the basis that this was the lowest bid received.

The City Manager said the total amount of the award was $16,933.00 and that funds are available through the Motor Transport Division motor vehicle parts line item and will be billed to the Fire Department at the completion of the refurbishment project.

Councilman Boland moved to approve the bids as presented by the City Manager. This motion was seconded by Councilman Myers and carried unanimously.

ORDINANCE NO. 1439 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED (Professional Offices in R-3 District)

11. Consideration was given to the third and final reading of Ordinance No. 1439, an ordinance amending Ordinance No. 322, known as "an ordinance providing for the zoning of th City of Asheville," as amended (Professional Offices in R-3 District).

Mayor McDevitt said this ordinance was previously read on first and second reading and would not be reread in its entirety unless there was a specific request to do so.

The City Manager presented a summary of the bid tabulation.

Councilwoman Frank moved for the adoption of Resolution No. 84-95. This motion was seconded by Councilman Myers and carried unanimously.

Complete text of Resolution No. 84-95 will be found in Resolution Book No. 14, page ~~340~~.

ADJOURNMENT - EXECUTIVE SESSION

Upon motion of Councilman Myers, seconded by Councilman Boland, the City Council adjourned to go into Executive Session.

ADJOURNMENT

At the conclusion of the Executive Session, Councilman Boland moved to continue the meeting until 8:00 A.M., June 11, 1984. This motion was seconded by Councilman Myers and carried unanimously.

Jay McDevitt
Mayor

Marian J. Messina
City Clerk

RESOLUTION NO. 84-93 - RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE A MUNICIPAL AGREEMENT WITH THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION FOR PROJECT 9.8130278 KNOWN AS DRAINAGE IMPROVEMENT TO LOUISIANA AVENUE

15. Consideration was given to a resolution authorizing the Mayor and City Clerk to execute a municipal agreement with the North Carolina Department of Transportation for Project No. 9.8130278 known as drainage improvement to Louisiana Avenue.

Mayor McDevitt said copies of this resolution were previously distributed to members of Council and the resolution would not be read unless there was a specific request to do so.

Councilman Boland moved for the adoption of Resolution No. 84-93. This motion was seconded by Councilwoman Frank and carried unanimously.

Complete text of Resolution No. 84-93 will be found in Resolution Book No. 14, page ~~337~~. 348 ✓

RESOLUTION NO. 84-94 - RESOLUTION OF INTENT TO CLOSE A PORTION OF CHARLES STREET AND CALLING A PUBLIC HEARING ON THE QUESTION

16. Consideration was given to a resolution of intent to close a portion of Charles Street and calling a public hearing on the question.

Mayor McDevitt said copies of this resolution were previously distributed to members of Council and the resolution would not be read unless there was a specific request to do so.

Mayor McDevitt said that the City Council had received a petition from Dr. Donald Jones, Superintendent of Asheville City Schools, and Mary Ann Richards, Executive Director of the Young Women's Christian Association, requesting that a portion of Charles Street be closed.

Councilwoman Frank moved for the adoption of Resolution No. 84-94 scheduling a public hearing on the question of closing a portion of Charles Street for July 17, 1984. This motion was seconded by Councilman Boland and carried unanimously.

Complete text of Resolution No. 84-94 will be found in Resolution Book No. 14, pages ~~338-339~~. 349 + 350 ✓

RESOLUTION NO. 84-95 - RESOLUTION AUTHORIZING THE MAYOR TO SIGN ON BEHALF OF THE CITY OF ASHEVILLE A CONTRACT WITH TENNOCA CONSTRUCTION COMPANY FOR THE PROJECT KNOWN AS SAND HILL ROAD EIGHT INCH SEWER LINE

17. Consideration was given to a resolution authorizing the Mayor to sign on behalf of the City of Asheville a contract with Tennoca Construction Company for the Project known as Sand Hill Road 8-inch sewer line.

Mayor McDevitt said copies of this resolution were previously distributed to members of Council and the resolution would not be read unless there was a specific request to do so.

Tuesday, June 12, 1984 at 4:00 p.m.

Regular Meeting

Present: Mayor Larry McDevitt, Presiding; Vice-Mayor Wilhelmina Bratton; Councilwomen Mary Lloyd Frank and Norma T. Price; Councilmen Gordon Myers, Walter R. Boland, and Louis Bissette; Corporation Counsel William F. Slawter; Acting City Manager William F. Wolcott, Jr.; Deputy City Clerk Carol Hensley.

Absent: None

INVOCATION

The invocation was given by Mayor McDevitt.

APPROVAL OF THE MINUTES

1. Consideration was given to the approval of the minutes of the June 5, 1984 meeting.

Upon motion of Vice-Mayor Bratton, seconded by Councilman Boland, the minutes of the June 5, 1984 meeting were unanimously approved as submitted.

RESOLUTION NO. 84-96 - RESOLUTION REGARDING PAIRING PROJECT

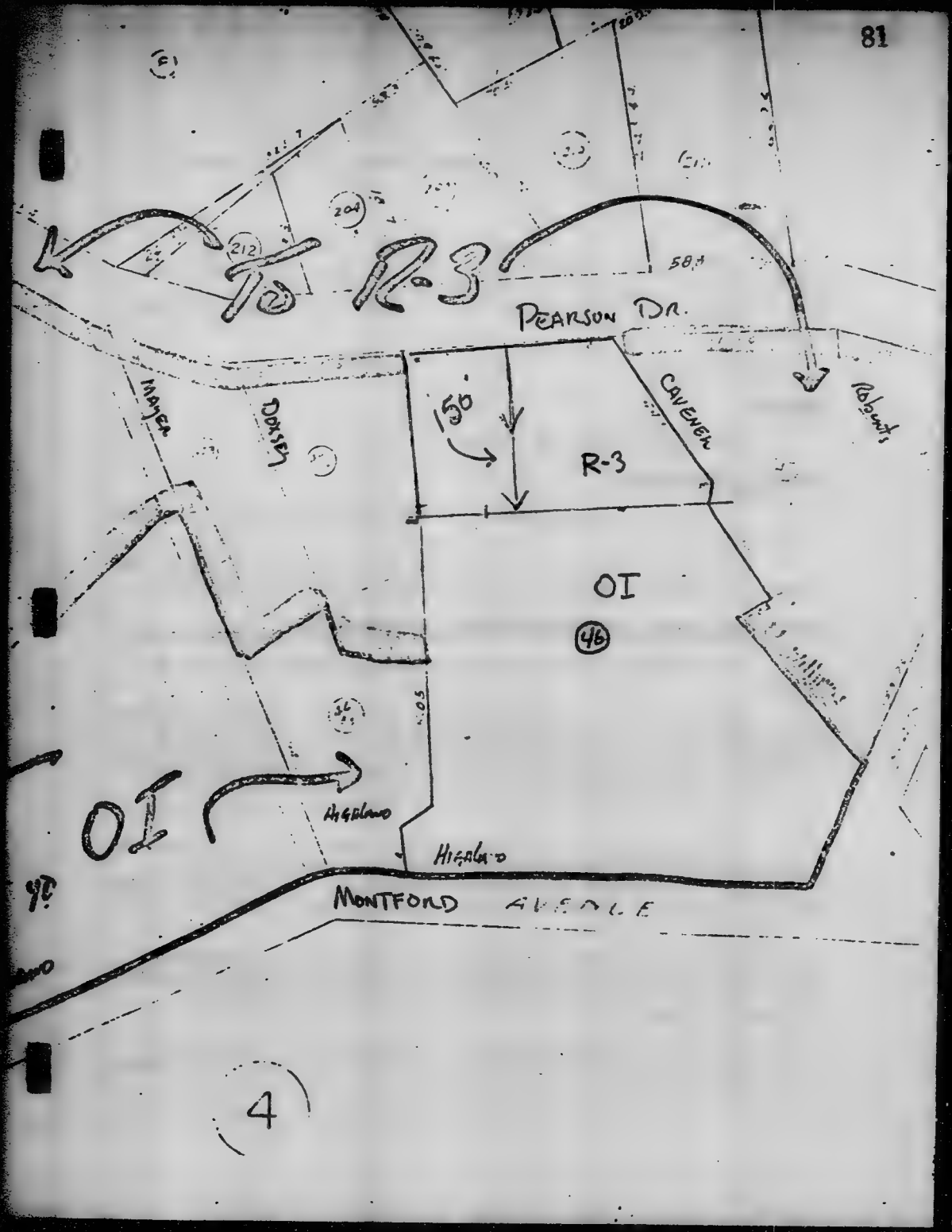
2. Consideration was given to a resolution regarding the Pairing Project.

Mayor McDevitt said a group of Asheville Citizens and other interested persons are involved in the national effort of the Ground 0 Project, where cities in the United States are paired with sister cities in the Soviet Union, in an effort to promote international peace, brotherhood, harmony and good will. He said this organization is attempting to establish a sister city relationship between Asheville and the Town of Klintsy in the Soviet Union.

Councilman Boland said that he is a member of this group and that the group has been working very hard in their efforts to attempt to develop international relationships to promote world-wide peace. He said that he hopes that this exchange of information between the two cities will eventually lead to an exchange of citizens.

Kitty Boniske thanked the Council for their support and said that Asheville is one of 108 cities reaching out in an effort to promote world-wide peace. She said that Council's action is being filmed for PBS (Public Broadcasting System).

Richard Babb spoke in support of the resolution and read the cover letter from a package of information that will be sent to the Town of Klintsy.


To R-3
PEARSON DR.
CAVENER
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HIGHLAND
HIGHLAND
MONTFORD AVENUE
4

ORDINANCE NO. 1447, AN ORDINANCE AMENDING ORDINANCE NO. 322, "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED (PROPERTY IN THE MONTFORD AVENUE AREA)

3. Consideration was given to the second reading of Ordinance No. 1447, an ordinance amending Ordinance No. 322, an Ordinance providing for the zoning of the City of Asheville," as amended (property in the Montford Avenue area).

Mayor McDevitt said this ordinance was previously read on first reading and would not be re-read in its entirety unless there was a specific request to do so.

Verl Emrick, Director of Planning, said that he has talked with Jack Stevens, Attorney for Highland Hospital and that the demarcation lines of Lot 4b have not been adjusted. However, he said this would be done prior to the third reading of the ordinance.

On a roll call of 7-0, Ordinance No. 1447 passed on second reading.

ORDINANCE NO. 1448 - AN ORDINANCE AMENDING SECTION 28-81.3 AND SECTION 28-81.4 OF ARTICLE IV, SPEED REGULATIONS, OF CHAPTER 28 OF THE CODE OF ORDINANCE OF THE CITY OF ASHEVILLE (REDUCE SPEED LIMIT ON MURDOCK AVENUE)

4. Consideration was given to the second reading of Ordinance No. 1448, an ordinance amending Section 28-81.3 and Section 28-81.4 of Article IV, Speed Regulations, of Chapter 28 of the Code of Ordinances of the City of Asheville (reducing speed limit on Murdock Avenue).

Mayor McDevitt said this ordinance was previously read on first reading and would not be re-read in its entirety unless there was a specific request to do so.

On a roll call vote of 7-0, Ordinance No. 1448 passed on second reading.

PUBLIC HEARING SCHEDULED - PROPOSED WORDING AMENDMENT TO THE ZONING ORDINANCE

5. Consideration was given to a motion scheduling a public hearing relative to the proposed wording amendment to the Zoning Ordinance to provide setback and height requirements for canopies.

Councilman Bissette moved to schedule a public hearing on the proposed wording amendment for July 17, 1984. This motion was seconded by Councilwoman Price and carried unanimously.

PUBLIC HEARING SCHEDULED - SITE PLAN OF PROPOSED "KNOB HILL DEVELOPMENT CORPORATION"

6. Consideration was given to a motion scheduling a public hearing relative to the site plan of the proposed "Knob Hill Development Corporation" to be located off Sand Hill Road.

Jane Bingham also spoke in support of the Pairing Project and the resolution.

Mayor McDevitt read the resolution.

Upon motion of Councilman Boland, seconded by Vice-Mayor Bratton, Resolution No. 84-96 was unanimously adopted. Complete text of Resolution No. 84-96 will be found in Resolution Book 14, Page 341. 352

PUBLIC HEARING - OPERATING BUDGET FOR THE CITY OF ASHEVILLE FISCAL YEAR 1984-85

ORDINANCE NO. 1449 - AN ORDINANCE ADOPTING THE OPERATING BUDGET AND FIXING THE TAX RATE OF THE CITY OF ASHEVILLE FOR THE FISCAL YEAR 1984-85

A public hearing was held relative to the operating budget and fixing the tax rate of the City of Asheville for the fiscal year 1984-85.

Mayor McDevitt opened the public hearing at 4:30 p.m.

The City Manager presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

John Young of the Asheville Fire Department read the following petition:

> "We the undersigned members of the Asheville Fire Department do hereby request that the City Council of the City of Asheville grant a 15% across-the-board raise for all City employees, effective July 1, 1984. We have not received any pay raises for the past two fiscal years."
>
> "We also request that our longevity, vacation, and holidays be brought up to the (four-city averages) which the City uses."

This petition contained 108 signatures.

Maxine Teague addressed Council relative to her concern on the proposed closing of Station No. 3 on Louisiana Avenue in West Asheville. She said there are 11,424 residents in West Asheville which is one-fourth of the total City population. She said there is really a need for more fire protection in that area.

Mayor McDevitt said it is the consensus of Council to leave Fire Station No. 3 on Louisiana Avenue open under the formulation of the present proposed budget.

Mayor McDevitt closed the public hearing at 4:40 p.m.

Bob Wurst, Director of Audit and Budget, read the Ordinance.

Councilwoman Price moved for the adoption of Ordinance No. 1449. This motion was seconded by Councilwoman Frank and carried unanimously.

On a roll call of 7-0, Ordinance No. 1449 passed on first reading.

ADJOURNMENT - EXECUTIVE SESSION/BUDGET WORK SESSION

At 4:55 p.m. the City Council adjourned to go into executive session and to continue the meeting until 8:00 a.m., Wednesday, June 13, 1984 for a budget work session.

Lou McDevitt
Mayor

Norman J. Mallory
City Clerk

Councilman Boland moved to schedule a public hearing relative to the site plan of the proposed "Knob Hill Development Corporation" to be located off Sand Hill Road for June 26, 1984. This motion was seconded by Councilwoman Price and carried unanimously.

Mayor McDevitt requested that the Corporation Counsel furnish Council with a report prior to the public hearing on the question of whether the Council could legally grant a variance in the 10 to 13 units per acre.

RESOLUTION NO. 84-97 - A RESOLUTION AUTHORIZING THE DIRECTOR OF PARKS, RECREATION AND PUBLIC FACILITIES TO ENTER INTO LEASE AGREEMENT BY AND BETWEEN THE CITY OF ASHEVILLE AND THE BLUE RIDGE CENTER FOR MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES OF THE NORTH CAROLINA DEPARTMENT OF HUMAN RESOURCES

Consideration was given to a resolution authorizing the Director of Parks, Recreation and Public Facilities to enter into a lease agreement by and between the City of Asheville and the Blue Ridge Center for mental health, mental retardation and substance abuse services of the North Carolina Department of Human Resources.

The City Manager said this resolution will authorize a lease of a program room at Reid Memorial Recreation Center for the "Willy M" Program of the Blue Ridge Center for mental health.

Vice-Mayor Bratton moved for the adoption of Resolution No. 84-97. This motion was seconded by Councilman Boland and carried unanimously.

Complete text of Resolution No. 84-97 will be found in Resolution Book No. 14, at Page ~~341~~ 353.

PROCLAMATION - "HIRE THE VETERAN MONTH"

Mayor McDevitt proclaimed the month of June, 1984 as "Hire the Veteran Month."

CLAIMS - HELEN LEDFORD (WATER) LIZZIE STEPP (PARKS & RECREATION) SHERRY WELLS (PARKING SERVICES) MARY HAMMONDS (PARKS & RECREATION)

The City Manager presented claims received from Helen Ledford, Lizzie Stepp, Sherry Wells, and Mary Hammonds, which were received during the week of June 4, 1983.

Mayor McDevitt referred the claims to Corporation Counsel for investigation and recommendation.

RALPH BISHOP - LOTTERY SALES AND PENSION RECORDS

Ralph Bishop again addressed Council about lottery sales in the City of Asheville and his inability to obtain pension records relative the former Police Chief, J. C. Hall.

Bill Slawter, Corporation Counsel, said as discussed in Pre-Council, the existing ordinance establishing the Historic Resources Commission authorizes and empowers the Historic Resources Commission to take this action as an Inspection Agent of the City.

Mayor McDevitt closed the public hearing at 4:18 p.m.

PUBLIC HEARING - SITE PLAN OF THE PROPOSED "BEECHWOOD" PLANNED UNIT DEVELOPMENT

4. A public hearing was held relative to the adoption of the site plan of the proposed "Beechwood" Planned Unit Development to be located at the end of Victoria Place.

Mayor McDevitt opened the public hearing at 4:20 p.m.

The City Manager presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said this has been reviewed by the Planning and Zoning Commission at a meeting held on May 9, 1984, and that the Commission had recommended approval by City Council subject to compliance with the Erosion Control Ordinance. He said this will be seven, two-bedroom units, and the plans have been reviewed by the Metropolitan Sewerage District, as well as Water and Sewer Department, and both agencies agree there is sufficient water and sewer for the development. Mr. Emrick said he has received no opposition from adjoining property owners and that the adjoining owners encourage Council to approve the development. He said the developers will comply with the Erosion Control Ordinance.

Mayor McDevitt closed the public hearing at 4:27 p.m.

Upon motion of Councilman Boland, seconded by Councilwoman Price, the site plan was unanimously approved.

PUBLIC HEARING - REZONING PROPERTY LOCATED ON EMMA ROAD

ORDINANCE NO. 1450, AN ORDINANCE AMENDING ORDINANCE NO. 322, "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE" AS AMENDED (PROPERTY LOCATED ON EMMA ROAD)

5. A public hearing was held relative to rezoning property located on Emma Road.

Mayor McDevitt opened the public hearing at 4:29 p.m.

The City Manager presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said the property is of residential character and not conducive to industrial expansion. He said he had received a letter from Berthia Jones opposing the rezoning. By use of a map, Mr. Emrick explained the topography of the land.

Mayor McDevitt closed the public hearing at 4:35 p.m.

Tuesday, June 19, 1984 4:00 P.M.

Regular Meeting

Present: Mayor Larry McDevitt, Presiding; Vice-Mayor Wilhelmina Bratton; Councilwomen Mary Lloyd Frank and Norma T. Price; Councilmen Walter R. Boland, and Louis Bissette; Corporation Counsel William F. Slawter; Acting City Manager William F. Wolcott, Jr.; Deputy City Clerk Carol Hensley.

Absent: Councilman Gordon Myers

INVOCATION

Vice Mayor Bratton introduced Rev. Wills, who gave the invocation.

APPROVAL OF THE MINUTES

1. Consideration was given to the approval of the minutes of the June 12, 1984 meeting.

Upon motion of Councilwoman Frank, seconded by Councilman Bissette, the minutes of the June 12, 1984 meeting were unanimously approved as submitted.

PUBLIC HEARING - REZONING PROPERTY ON ARDMION PARK

2. Mayor McDevitt said this request had been considered by the Asheville Planning and Zoning Commission at a meeting held May 9, 1984. He said this request was being made by Dr. Robert J. Scully. The property is located on Ardmion Park. After review and discussion, the Commission voted to recommend to City Council that Ward 1, Sheet 4, and a portion of Lot 56 be rezoned from R-3 Residential District to R-4 Residential District. Mayor McDevitt said a public hearing was held on June 5, 1984 and continued to June 19, 1984 in order to research previous commitments over previous Council in adopting the redevelopment plan for the East End/Valley Street area.

Vice Mayor Bratton moved to continue the public hearing until June 3, 1984 without further advertising. This motion was seconded by Councilwoman Price and carried unanimously.

PUBLIC HEARING - ORDINANCE DESIGNATING THE HISTORIC RESOURCES COMMISSION AS THE INSPECTIONS AGENT FOR THE CITY OF ASHEVILLE FOR FACADE PRESERVATION EASEMENTS

3. A public hearing was held relative to the adoption of an ordinance designating the Historic Resources Commission as the Inspection Agent of the City of Asheville for Facade Preservation Easements.

Mayor McDevitt opened the public hearing at 4:15 p.m.

The City Manager presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Planning Director, read the following report:

MEMORANDUM TO: William F. Wolcott, Jr., Acting City Manager

FROM: Verl R. Emrick, Jr., Planning Director

SUBJECT: Montford Rezoning - Ken Pitts, Frugal Framer
Ward 3, Sheet 2, Lots 271 and 272

DATE: June 19, 1984

Last week I received the request from Mr. Ken Pitts that his lot be excluded from the rezoning that City Council is now involved in. Knowing the importance of both sides of this issue, staff contacted the Montford Community Club's Planning Committee and can report the following:

1. The Montford Planning Committee will support the exclusion of Ken's lots (so that his finaicing can be secured) under the following conditions;

   a. That City staff develop a proposal for the Committee's review and approval which would allow certain commercial uses in the R-4 Residential District,
   b. That said uses would be allowed under certain conditions - Conditions to be specified by recommendations of the Committee,
   c. That this process should be completed within 90 days from this date (June 19, 1984); and
   d. That following the completion of these ordinance changes, the zoning of Ken's lots would become R-4 Residential District.

If you have any questions, please advise.

Councilwoman Price moved to amend the Ordinance to delete Lots 271 and 272. This motion was seconded by Councilman Bissette and carried unanimously.

A discussion was held relative to the accuracy of the Ordinance. It was determined that several lots were inadvertantly left out and would have to be included in a new ordinance following proper procedure.

On a roll call vote of 6-0, Ordinance No. 1447 passed on third and final reading as amended.

Complete text of Ordinance No. 1447 will be found at Ordinance Book No. 10, at Page ~~186~~ and ~~186~~. 151 and 152

ORDINANCE NO. 1448 - AN ORDINANCE AMENDING SECTION 28-81.3 AND SECTION 28-81.4 OF ARTICLE IV, SPEED REGULATIONS OF CHAPTER 28 OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE (REDUCING SPEED LIMIT ON MURDOCK AVENUE)

9. Consideration was given to the third and final reading of Ordinance No. 1448, an Ordinance amending Section 28-81.3 and Section 28-81.4 of Article IV, Speed Regulations, of Chapter 28 of the Code of Ordinances of the City of Asheville (Reducing speed limit on Murdock Avenue).

Mayor McDevitt said that this Ordinance had been read on first and second reading and would not be reread in its entirety unless there was specific request to do so.

Mayor McDevitt said copies of this ordinance had been previously distributed to members of Council and the ordinance would not be read in its entirety unless there was a specific request to do so.

Councilman Bissette moved for the adoption of Ordinance No. 1450. This motion was seconded by Councilwoman Frank and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1450 passed on first reading.

ORDINANCE NO. 1451 - AN ORDINANCE AMENDING SECTION 19A-11(a) OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE (EMPLOYEE GRIEVANCE PROCEDURE)

6. Consideration was given to the first reading of Ordinance No. 1451, an ordinance amending Section 19A-11(a) of the Code of Ordinances of the City of Asheville (Employee Grievance Procedure).

Mayor McDevitt said copies of this ordinance were previously distributed to members of Council and the ordinance would not be read in its entirety unless there was a specific request to do so.

Upon inquiry of Vice Mayor Bratton, Sam Graves, Director of Management Services, said every attempt had been made to notify employees of the proposed change in the grievenace procedure.

On a roll call vote of 6-0, Ordinance No. 1451 passed on first reading.

ORDINANCE NO. 1449 - AN ORDINANCE ADOPTING THE OPERATING BUDGET AND FIXING THE TAX RATE OF THE CITY OF ASHEVILLE FOR FISCAL YEAR 1984-85

7. Consideration was given to the second reading of Ordinance 1449, an ordinance adopting the operating budget and fixing the tax rate of the City of Asheville for the Fiscal Year 1984-85.

Mayor McDevitt said this ordinance had been read on first reading and would not be reread in its entirety unless there was a specific request to do so.

Mayor McDevitt said Council was still in the process of working on the budget and that it would be finalized by next Tuesday for the third reading. Also, he said there would be no change in the proposed tax rate.

On a roll call vote of 6-0, Ordinance No. 1449 passed on second reading.

ORDINANCE NO. 1447 - AN ORDINANCE AMENDING ORDINANCE NO. 322, "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE" AS AMENDED (PROPERTY IN THE MONTFORD AVENUE AREA)

8. Consideration was given to the third reading of Ordinance No. 1447, an ordinance amending Ordinance No. 322, "An ordinance providing for the zoning of the City of Asheville," as amended (property in the Montford Avenue area).

BIDS - TWO DUMP TRUCKS FOR THE STREET DIVISION

13. Consideration was given to bids for two dump trucks for the Street Division.

Clark Brown, Director of Public Works said it is recommended that the second lowest bid be approved by Council. He said the main reason for this recommendations due to engine size. The width of the truck bed is a minor deficiency and also the hydraulic pump for the truck bid is another factor.

Councilman Boland moved to approve the bids as recommended by the Director of Public Works, Clark Brown, awarding the bids to Hickory International in the amount of $102,112.00 This motion was seconded by Councilwoman Frank and carried unanimously.

PUBLIC HEARING SCHEDULED - SITE PLAN FOR PHASE I OF BINGHAM HEIGHTS MOBILE HOME PARK

14. Consideration was given to a motion scheduling a public hearing relative to the site plan for Phase I of Bingham Heights Mobile Home Park for July 17, 1984.

Councilman Bissette moved to schedule a public hearing on the site plan for July 17, 1984. This motion was seconded by Councilwoman Price and carried unanimously.

PUBLIC HEARING SCHEDULED - REZONING PROPERTY AT 896 FAIRVIEW ROAD

15. Consideration was given to a motion scheduling a public hearing relative to rezoning property located at 896 Fairview Road for July 17, 1984.

Councilwoman Price moved to schedule a public hearing on the rezoning request for July 17, 1984. This motion was seconded by Councilwoman Frank and carried unanimously.

COUNCILMAN BISSETTE - MURDOCK SPEED LIMIT SIGNS AND ENFORCEMENT

Councilman Bissette requested that the Murdock speed limit signs be installed as soon as possible, and that the signs be enforced due to the fact that it is summer and more children are playing outside and near the streets.

VICE-MAYOR BRATTON - STATUS OF GLEN FALLS BRIDGE

Vice-Mayor Bratton requested a status report on the Glen Falls Bridge.

RESOLUTION NO. 84-100 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE ON BEHALF OF THE CITY OF ASHEVILLE A CHANGE ORDER WITH BANKS BROTHERS CONSTRUCTION COMPANY IN CONNECTION WITH THE PROJECT KNOWN AS ASHEVILLE TRANSIT AUTHORITY PARKING LOT IMPROVEMENTS

Consideration was given to a resolution authorizing the Mayor to execute on behalf of the City of Asheville a change order with Banks Brothers Construction Company in connection with the project known as Asheville Transit Authority parking lot improvement.

Mayor McDevitt read the resolution.

On a roll call vote of 6-0, Ordinance No. 1448 passed on third and final reading.

Complete text of Ordinance No. 1448 will be found in Ordinance Book No. 10, at Page ~~187.~~ 153

Mayor McDevitt requested that the speed limit on Murdock Avenue not be enforced until the signs were posted.

ORDINANCE NO. 1440 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED (GRANTING OF VARIANCES/GROUP DEVELOPMENTS)

Consideration was given to the third and final reading of Ordinance No. 1440, an Ordinance amending Ordinance No. 322, known as "an Ordinance providing for the zoning of the City of Asheville," as amended (granting of variances/group developments).

Councilwoman Price moved to continue the third reading of Ordinance No. 1440 until June 26, 1984. This motion was seconded by Vice-Mayor Bratton and carried unanimously.

RESOLUTION NO. 84-98 - RESOLUTION AUTHORIZING THE MAYOR TO SIGN AN AGREEMENT WITH THE SKYLAND VOLUNTEER FIRE DEPARTMENT, INC. FOR FIRE PROTECTION SERVICES IN THE AIRPORT ANNEXATION AREA

~~11.~~ Consideration was given to a resolution authorizing the Mayor to sign an agreement with the Skyland Volunteer Fire Department, Inc. for fire protection services in the airport annexation area.

Mayor McDevitt said copies of this resolution were previously distributed to members of Council and the resolution would not be read in its entirety unless there was a specific request to do so.

Upon motion of Councilman Boland, seconded by Councilwoman Price, Resolution No. 84-98 was unanimously adopted.

Complete text of Resolution No. 84-98 will be found in Resolution Book No. 14 at Page ~~343.~~ 354

RESOLUTION NO. 84-99 - RESOLUTION AUTHORIZING THE MAYOR TO SIGN A CONTRACT FOR FIRE PROTECTION SERVICES WITH THE VETERANS ADMINISTRATION HOSPITAL AT OTEEN

12. Consideration was given to a resolution authorizing the Mayor to sign a contract for fire protection services with the Veterans Administration Hospital at Oteen.

Mayor McDevitt said copies of the resolution were previously distributed to members of Council and that the resolution would not be read unless there was specific request to do so.

Upon motion of Councilwoman Frank, seconded by Councilman Boland, Resolution No. 84-99 was unanimously adopted.

Complete text of Resolution No. 84-99 will be found in Resolution Book No. 14, Page ~~344.~~ 355

CLAIMS - ROBERT COMPTON (METER READERS) - ANN KNOCHE (STREETS) - ANTHONY SWEAT (WATER)

The City Manager presented claims received from Robert Compton (Meter Readers), Ann Knoche (Street), and Anthony Sweat (Water).

Mayor McDevitt referred the claims to Corporation Counsel for investigation and recommendation.

RALPH BISHOP - REQUESTS FOR COPY OF CITY RECORDS

Ralph Bishop again addressed the City Council on his difficulty in obtaining records concerning J. C. Hall's retirement.

ADJOURNMENT - EXECUTIVE SESSION

City Council adjourned at 6:15 p.m. to go into executive session.

Larry McDevitt
MAYOR

William F. Mallett
CITY CLERK

Mayor McDevitt said this resolution will authorize him to sign Change Order No. 1 of the existing contract with Banks Brothers Construction Company in the amount of $1,300.00. He said this would make the total contract $27,920.00.

Upon motion of Councilwoman Price, seconded by Councilman Boland, Resolution No. 84-100 was unanimously adopted.

Complete text of Resolution No. 84-100 will be found in Resolution Book No. 14, at page ~~345~~ 356.

RESOLUTION NO. 84-101 - RESOLUTION APPROVING THE ASHEVILLE/BUNCOMBE WATER AUTHORITY BUDGET FOR FISCAL YEAR 1984-85

Consideration was given to a resolution approving the Asheville-/Buncombe Water Authority budget for fiscal year 1984-85.

Mayor McDevitt read the resolution.

Upon motion of Councilwoman Price, seconded by Councilman Bissette, Resolution No. 84-101 was unanimously adoped.

After discussion, Mayor McDevitt requested that he be excused from voting on the Water Authority Budget due to his law partner being the Attorney for the Authority, which he felt would be a conflict of interest.

Councilwoman Price moved to excuse Mayor McDevitt from voting on the Water Authority Budget. This motion was seconded by Councilman Boland and carried unanimously.

At this time Councilwoman Price moved to reconsider the vote on the Water Authority Budget. This motion was seconded by Councilman Bissette and carried unanimously.

Councilwoman Price moved to approve the Water Authority Budget, adopting Resolution No. 84-101. This motion was seconded by Councilman Bissette, motion passing on a 5-0 vote with Mayor McDevitt being excused from the vote.

Complete text of Resolution No. 84-101 will be found in Resolution Book No. 14 at Page ~~346~~ 357.

AUTHORIZATION TO PURCHASE "ASHEVILLE - A PICTORIAL HISTORY" BOOKS FOR PRESENTATIONS

Councilwoman Price moved to authorize the purchase of 20 "Asheville - a Pictorial History" books for presentation to various groups and individuals visiting the City. This motion was seconded by Councilwoman Frank and carried unanimously.

Mayor McDevitt presented the resolution to Mr. Blankenship.

Complete text of Resolution No. 84-103 will be found in Resolution Book No. 14 at Page ~~349~~. 340

PROCLAMATION - "CLOWN DAY '84" - JUNE 27, 1984

Mayor McDevitt proclaimed June 27, 1984 as "Clown Day '84".

Mayor McDevitt presented the proclamation to Oralene Simmons, with the Montford Recreation Center. A clown participating in "Clown Day '84" presented members of Council with balloons.

PROCLAMATION - "CHILDREN'S SAFETY DAYS" - JULY 1-4, 1984

Mayor McDevitt proclaimed July 1-4, 1984 as "Children's Safety Days".

ORDINANCE NO. 1449 - AN ORDINANCE ADOPTING THE OPERATING BUDGET AND FIXING THE TAX RATE OF THE CITY OF ASHEVILLE FOR FISCAL YEAR 1984-85

4. Consideration was given to the third reading of Ordinance No. 1449, an Ordinance adopting the operating budget and fixing the tax rate of the City of Asheville for Fiscal Year 1984-85.

Mayor McDevitt said the City of Asheville budget for Fiscal Year 1984-85 was formally presented at the May 29, 1984 meeting of the Asheville City Council. On June 12, 1984, a public hearing was held and this ordinance passed on first reading. This ordinance passed on second reading on June 19, 1984.

Mayor McDevitt said this ordinance was previously read on first and second reading and will not be reread in its entirety unless there was a specific request to do so.

Bob Wurst, Director of Audit and Budget, presented several changes discussed by members of Council in the Pre-Council work session. He said these changes primarily involve allocations relative to the transfer of Parks & Recreation Facilities to the County of Buncombe, minor miscellaneous line item changes, increased security at the Civic Center Parking Garage, and capital improvements at the Civic Center Parking Garage.

Mayor McDevitt noted that the budget was being adopted with a tax rate of 59 cents, assuming a 94% collection rate and that 12 cents of the tax rate would be specifically allocated for Debt Service.

Councilman Boland moved to amend Ordinance No. 1449 as outlined by the Director of Audit and Budget. This motion was seconded by Councilman Myers and carried unanimously.

On a roll call vote of 5-0, Ordinance No. 1449 passed on third and final reading.

Complete text of Ordinance No. 1449 will be found in Ordinance Book No. 10 at Page ~~188~~, ~~189~~ and ~~190~~. 154, 155 + 156

Tuesday, June 26, 1984 - 4:00 p.m.

Regular Meeting:

Present: Mayor Larry McDevitt, Presiding; Vice-Mayor Wilhelmina Bratton; Councilmen Walter R. Boland, Louis Bissette and Gordon Myers; Corporation Counsel William F. Slawter; Acting City Manager William F. Wolcott, Jr.; Deputy City Clerk Carol Hensley.

Absent: Councilwomen Mary Lloyd Frank and Norma T. Price

INVOCATION

The invocation was given by Councilman Gordon Myers.

APPROVAL OF THE MINUTES

1. Consideration was given to the approval of the minutes of the June 19, 1984 meeting.

Upon motion of Vice-Mayor Bratton, seconded by Councilman Bissette, the minutes of the June 19, 1984 meeting were unanimously approved as submitted.

RESOLUTION NO. 84-102 - RESOLUTION OF APPRECIATION AND COMMENDATION TO MILDRED S. HEATHERLY

2. Consideration was given to a resolution of appreciation and commendation to Mildred S. Heatherly.

Mayor McDevitt read the resolution, stating that Mildred Heatherly has been a City employee since March 4, 1968 and will be retiring on July 1, 1984.

Upon motion of Councilman Boland, seconded by Councilman Bissette, Resolution No. 84-102 was unanimously adopted.

Mayor McDevitt presented the resolution to Mildred Heatherley.

Complete text of Resolution No. 84-102 will be found in Resolution Book No. 14 at Page ~~340~~. 359

RESOLUTION NO. 84-103 - RESOLUTION OF APPRECIATION AND COMMENDATION TO HARTSEL BLANKENSHIP

3. Consideration was given to a resolution of appreciation and commendation to Hartsel Blankenship.

Mayor McDevitt read the resolution stating that Mr. Blankenship has been an employee of the City of Asheville since November 28, 1955, and will be retiring on June 29, 1984.

Upon motion of Councilman Boland, seconded by Councilman Myers, Resolution No. 84-103 was unanimously adopted.

Corporation Counsel Slawter advised members of Council that after research, adoption of this particular ordinance would be illegal and beyond the powers of Council under the General Statutes of North Carolina.

On a roll call vote of 5-0, Ordinance No. 1440 failed on third reading.

PUBLIC HEARING - SITE PLAN - "KNOB HILL DEVELOPMENT CORPORATION" - SAND HILL ROAD

6. A public hearing was held relative to a site plan of the proposed "Knob Hill Development Corporation" to be located off Sand Hill Road.

Mayor McDevitt opened the public hearing at 4:45 p.m.

The City Manager presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said the Asheville Planning and Zoning Commission at a meeting held on June 6, 1984, reviewed the site plan of the proposed "Knob Hill Development Corporation" to be located off Sand Hill Road. The plan was prepared and submitted by Ray Anders, R.L.S., for Poff Construction Company. After review and discussion, the Commission voted to recommend approval of the site plan subject to compliance with the Erosion Control Ordinance and City Council granting a density variance from 10 units per acre to 13 units per acre. This public hearing was scheduled by a motion of City Council at the June 12, 1984 meeting.

Mr. Emrick advised that the granting of a density variance of 10 units per acre to 13 units per acre as recommended by the Planning and Zoning Commission was, in fact, beyond Council's powers. Therefore, the developer reduced the number of units for the project to 10 units per acre, which would be in compliance with the Zoning Ordinance. He said water and sewer are available in sufficient amounts to adequately supply the development. He said this project is located off Sand Hill Road at the intersection of I-240 and I-26.

Mayor McDevitt closed the public hearing at 4:49 p.m.

Councilman Bissette moved to approve the site plan of the proposed "Knob Hill Development Corporation" to be located off Sand Hill Road as recommended by the Planning and Zoning Commission, subject to compliance with the Erosion Control Ordinance. This motion was seconded by Councilman Boland and carried unanimously.

ORDINANCE NO. 1450 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE", AS AMENDED (PROPERTY LOCATED ON EMMA ROAD)

7. Consideration was given to the second reading of Ordinance No. 1450, an ordinance amending Ordinance No. 322, known as "an ordinance providing for the zoning of the City of Asheville", as amended (property located on Emma Road.)

Mayor McDevitt said this ordinance was previously read on first reading and would not be reread in its entirety unless there was a specific request to do so.

Jesse Ray presented the following petition to members of Council:

"We, the undersigned, having loved ones whose mortal remains are interred in the Riverside Cemetery, urgently request that the lower roads be paved thus making it possible to reach grave sites that, for all intents and purposes, are now inaccessible during periods of inclement weather. We feel that the area in question has been neglected since its inception, but should be maintained on a plane comparable to that of the other parts of the cemetery.

If you are familiar with the total cemetery area, we feel certain that you agree with the view that the general topography, and the narrow, hilly, serpentine road in much of the cemetery acreage leave much to be desired. By upgrading and paving the road in this area, and by improving the maintenance of the cemetery as a whole, the appearance of this outstanding community landmark would be greatly enhanced.

We present this matter with the hope that you will, with reasonable dispatch, appropriate funds necessary to remedy this sorely long neglected situation."

Mayor McDevitt informed Mr. Ray that members of Council were aware of the petitioners' concerns and that their request for paving of roads in the Riverside Cemetery would be considered along with other capital paving projects in the next few weeks. He assured Mr. Ray that their request would be receiving prompt attention.

The City Manager was instructed to obtain information relative to the paving of roads in the Riverside Cemetery and the anticipated cost involved prior to next weeks work session.

ORDINANCE NO. 1440 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED (GRANTING OF VARIANCES/GROUP DEVELOPMENTS)

5. Consideration was given to the third reading of Ordinance No. 1440, an ordinance amending Ordinance No. 322, known as "an Ordinance providing for the zoning of the City of Asheville", as amended (granting of variances/group developments).

Mayor McDevitt said the Asheville Planning and Zoning Commission at a meeting held April 18, 1984, considered a proposed wording amendment to the Zoning Ordinance which would simplify the review process for a developer when variances are required for group development projects and eliminate a third review of the project by an appointed board or commission. After review and discussion, the Commission recommended an amendment to Section 3061.B. Development Standards authorizing Council to grant variances for building/structural setbacks, density requirements, provisions of the sign regulations, and off-street parking requirements. A public hearing was held and this ordinance passed on first reading on May 22, 1984. This ordinance passed on second reading on May 29, 1984. At the June 5, 1984 meeting, the third reading of this ordinance was postponed until June 19, 1984, to allow time for research to resolve a legal issue. On June 19, 1984, third reading was postponed until June 26, 1984.

Ralph Bishop spoke in opposition to the resolution.

Complete text of Resolution No. 84-105 will be found in Resolution Book No. 14 at Page ~~351.~~ 365 /L

RESOLUTION NO. 84-106 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE DEEDS OF CONVEYANCE AND OTHER DOCUMENTS NECESSARY FOR TRANSFER OF RECREATION PARK, MUNICIPAL GOLF COURSE, McCORMICK FIELD AND ASTON PARK RECREATIONAL FACILITIES TO THE COUNTY OF BUNCOMBE

11. Consideration was given to a resolution authorizing the Mayor to execute Deeds of Conveyance and other doucments necessary for transfer of Recreation Park, Municipal Golf Course, McCormick Field and Aston Park Recreational Facilities to the County of Buncombe.

Mayor McDevitt noted that in the negotiations for the transfer of the Parks and Recreation Facilities it was determined that the County of Buncombe would maintain the entire recreational facilities at the Aston Park. However, the City would continue to own and maintain the maintenance shed and parking lot at Aston Park. He said, by agreement, the County could use a portion of the maintenance shed. He said the McCormick Field will include the parking lot. He said the Memorial Stadium would remain owned and maintained by the City of Asheville and he would anticipate cooperative use of the parking lots. He said the summer playground activities would continue to operate at the Aston Park. He said all deeds would include clauses providing for reversion to the City of all properties if the County ceases to use the property for recreational purposes or if the water agreement became void, or if the County transfers ownerships of these facilities.

Mayor McDevitt said this transfer would take place on or before July 1, 1984.

Upon motion of Councilman Bissette, seconded by Councilman Boland, Resolution No. 84-106 was unanimously adopted.

Complete text of Resolution No. 84-106 will be found in Resolution Book No. 14 at Page ~~362.~~ 364 - 366 /L

SCHEDULING OF PUBLIC HEARING - MONTFORD AREA - WARD 3, SHEET 2, LOTS 149 1/2, 275 3/4, 294, 295, 272 and 271

Councilman Bissette moved to schedule a public hearing relative to rezoning Ward 3, Sheet 2, Lots 149 1/2, 275 3/4, 294, 295, 271 and 272 from Central Business District (CBD) to R-4 Residential District for July 17, 1984. This motion was seconded by Vice-Mayor Bratton and carried unanimously.

CLAIMS - JOHN GATLING (STREET) - GLENDA STEPHENS (STREET) - SHARON HARPER (SANITATION)

The City Manager presented claims received from John Gatling, Glenda Stephens and Sharon Harper.

Mayor McDevitt referred the claims to the Corporation Counsel for investigation and recommendation.

On a roll call vote of 5-0, Ordinance No. 1450 passed on second reading.

ORDINANCE NO. 1451 - AN ORDINANCE AMENDING SECTION 19A-11 (A) OF THE CODE OF ORDINANCE OF THE CITY OF ASHEVILLE

8. Consideration was given to the second reading of Ordinance No. 1451, an ordinance amending section 19A-11 (a) of the Code of Ordinance of the City of Asheville (Employee Grievance Procedure).

Mayor McDevitt said this ordinance was previously read on first reading and would not be reread in its entirety unless there was a specific request to do so.

On a roll call vote of 5-0, Ordinance No. 1451 passed on second reading.

RESOLUTION NO. 84-104 - RESOLUTION APPROVING ASHEVILLE/BUNCOMBE WATER AUTHORITY BUDGET AMENDMENTS FOR FISCAL YEAR 1983-84

9. Consideration was given to a resolution approving Asheville/Buncombe Water Authority Budget amendments for Fiscal Year 1983-84.

Mayor McDevitt said on June 19, 1984, the Asheville/Buncombe Water Authority amended its Fiscal Year 1983-84 Operating Budget. This amendment appropriated $350,000 as a contribution for sewer construction and increased the City's administrative services appropriation in the amount of $63,744. As set forth in the Water Agreement, the Asheville City Council and Buncombe County Commissioners must approve amendments to the Water Authority Budget.

Upon motion of Councilman Boland, seconded by Councilman Bissette, Resolution No. 84-104 was unanimously adopted.

Complete text of Resolution No. 84-104 will be found in Resolution Book No. 14 at page ~~350~~. 361 JR

RESOLUTION NO. 84-105 - RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT WITH THE LAND-OF-SKY REGIONAL COUNCIL FOR PRODUCTIVITY SPECIALIST SERVICES FOR 1984-85

10. Consideration was given to a resolution authorizing the Mayor to enter into an agreement with the Land-of-Sky Regional Council for Productivity Specialist services for 1984-85.

Mayor McDevitt said the Land-of-Sky Regional Council has offered the services of a Productivity Specialist to the City. It is expected that this service will result in cost reductions that will be beneficial to the City. Funds for such services are appropriated in the Audit and Budget departmental budget. The fiscal impact of this action will result in studies which should result in cost savings to the City. The funds for this agreement, in the amount of $25,890.50, are appropriated in the Fiscal 1984-85 Audit and Budget departmental budget.

Upon motion of Vice-Mayor Bratton, seconded by Councilman Boland, Resolution No. 84-105 was unanimously adopted.

Lew McDevitt
MAYOR

William F. Hennessey
CITY CLERK

LAWSUITS - ASHEVILLE HOUSING AUTHORITY VS. CONDEMNATION OF ISAAC DICKSON PROPERTY (EAST END/VALLEY STREET)

The City Manager presented members of Council with a summons received in connection with a lawsuit involving the Asheville Housing Authority vs. the condemnation of Isaac Dickson property in the East End/Valley Street area.

Mayor McDevitt referred the summons to the Corporation Counsel for investigation and recommendation.

PETITIONS - 414 HAYWOOD ROAD AND AYCOCK ELEMENTARY SCHOOL

Mr. Carl Baldasaro, 419 Haywood Road, presented the following petitions:

"The Honorable Mayor Larry McDevitt:

To the City of Asheville and the Asheville Health Department.

We, the undersigned, petition the City of Asheville and the Health Department, and all other interested and influential parties, to take immediate action to remodel, board up, seal or demolish the vacant building on the southeast corner of the intersection of Haywood Road and Richmond Avenue (414 Haywood Road). We feel the building is unsanitary, and unsafe, that it provides unlawful shelter for vagrants and that it is an eyesore to our community."

"The Honorable Mayor Larry McDevitt:

To the City of Asheville and the Asheville Health Department.

We, the undersigned, petition the City of Asheville and the Health Department, and all other interested and influential parties, to take immediate steps to improve conditions on the grounds of the Aycock Elementary School, located at 441 Haywood Road. We believe it is not safe for the children in the community to use the playground during the summer due to loitering, drinking and other undesirable acts."

After a lengthy discussion relative to the events leading up to these petitions, Mayor McDevitt said the City staff would look into the concerns expressed and requested that the City Manager report findings relative to the requests to Council within two weeks. He also requested that the City Manager look into increased police surveillance in these areas.

RALPH BISHOP - LOTTERY SALES

Ralph Bishop spoke to members of Council relative to Chief Fred Hensley and lottery sales in the City of Asheville.

ADJOURNMENT TO EXECUTIVE SESSION

Upon motion of Councilman Boland, seconded by Vice-Mayor Bratton, the meeting adjourned to executive session at 5:45 p.m.

Mr. Will Burton, spokesman for the East End/Valley Street Neighborhood Association, said the proposed developers of the property in question, Dr. Robert J. Scully, met with the neighborhood residents on June 28, 1984. He said the Scully's presented their proposal at this meeting. He said after the presentation and discussion among the neighborhood residents, it was the unanimous decision of the East End/Valley Street Neighborhood Association to continue to oppose the rezoning of any property in the East End/Valley Street area. He said the rezoning is not in harmony with the neighborhood.

Reverend Christopher, resident in the East End/Valley Street area, spoke in opposition to the rezoning. He said during the meeting on June 28, 1984 Dr. Scully mentioned that there were plans in the making for the East End/Valley Street area in the future. He said if there are any secret plans for the area, the neighborhood should be informed about anything that is going to affect their neighborhood. He said it is the intent of the Committee to have no "spot zoning."

Mayor McDevitt informed Reverend Christopher that there are no secret plans for the East End/Valley Street area.

At the request of Mayor McDevitt, Mr. Emrick, Director of Planning, said he was not aware of any plans, of a secret nature, for the East End/Valley Street area.

Virginia Summey, 74 Mountain Street, spoke in opposition to the rezoning.

Ralph Brown, 608 College Street, member of the Planning Committee for the East End/Valley Street Neighborhood Association, spoke in opposition to the rezoning stating that the property should be left zoned as it is.

Councilwoman Price noted that the property as presently zoned, R-3 Residential District, would allow for multi-residential units.

Mr. William Young, Jr. and Mr. Henry Dill, residents in the East End/Valley Street area, spoke in oppositionn to the rezoning.

Dr. Robert Scully, petitioner for the rezoning, read a statement that outlined his proposed development on a 27 acre tract. He said this area is in close proximity with the hospital complex and would have been beneficial to his professional practice. He said his plans were to use 21 acres for residential use, and six acres for office space. He said after meeting with the residents, he understood their "intense" concerns relative to the rezoning. However, he said, as stated at the community meeting, that eventually there would have to be a comprehensive master plan for the City which would include the East End/Valley Street area. He said he felt the main concern of the residents was that if they supported his rezoning petition, this might be an open-door policy for future rezonings of their neighborhood. He said because of the controversy and "intense" emotional concerns of the neighborhood that he was hereby withdrawing his request to rezone the property. He said in proposing a comprehensive master plan for the City, areas for the health
industry need to be considered.

At the request of Mayor McDevitt, Corporation Counsel Slawter advised that after researching the previously adopted redevelopment plan for the East End/Valley Street area, Council would not have the legal authority to rezone any property in the area without changing the redevelopment plan.

Tuesday - July 3, 1984 - 4:00 p.m.

Regular Meeting

Present: Mayor Larry McDevitt, Presiding; Vice-Mayor Wilhelmina Bratton; Councilwomen Mary Lloyd Frank and Norma T. Price; Councilmen Gordon Myers, Walter R. Boland, and Louis Bissette; Corporation Counsel William F. Slawter; Acting City Manager William F. Wolcott, Jr.; Deputy City Clerk Carol Hensley.

Absent: None

INVOCATION

The invocation was given by Councilwoman Mary Lloyd Frank.

APPROVAL OF THE MINUTES

1. Consideration was given to the approval of the minutes of the June 26, 1984 meeting.

Upon motion of Councilwoman Price, seconded by Councilwoman Frank, the minutes of the June 26, 1984 meeting were unanimously approved with several spelling changes.

PROCLAMATION - "SOAP BOX DERBY DAY IN WESTERN NORTH CAROLINA" - SATURDAY, JULY 7, 1984

Mayor McDevitt proclaimed Saturday, July 7, 1984 as "Soap Box Derby Day in Western North Carolina."

Mayor McDevitt presented the proclamation to Dr. Tom Jones, with the West Asheville Rotary Club.

CONTINUATION OF PUBLIC HEARING - REZONING PROPERTY ON ARDMION PARK

2. A public hearing relative to rezoning property located on Ardmion Park continued.

Mayor McDevitt said the Asheville Planning and Zoning Commission at a meeting held May 9, 1984, considered the request of Dr. Robert J. Scully that Ward I, Sheet 4, portion of Lot 56, be rezoned from R-3 Residential District to OI Office Institutional District. The property is located on Ardmion Park. After review and discussion, the Commission voted to recommend to City Council that Ward I, Sheet 4, portion of Lot 56, be rezoned from R-3 Residential District to R-4 Residential District. A public hearing was held on June 5, 1984, and continued to June 19, 1984, in order to research previous commitments of a previous Council in adopting the Redevelopment Plan for the East End/Valley Street area. At the City Council meeting on June 19, 1984, the public hearing was continued without further advertising until July 3, 1984.

Mayor McDevitt reopened the public hearing at 4:08 p.m.

Supervision, and they have advised the City of Asheville that they have no objections to the installation of barricades at the entrances and exits to said property. This resolution will authorize the Director of Public Works to place barricades at the entrance and exit points of said property along Short Tremont Street.

Mayor McDevitt said copies of the resolution were previously distributed to members of Council and would not be read in its entirety unless there was specific request to do so.

Upon motion of Councilwoman Price, seconded by Councilwoman Frank, Resolution No. 84-107 was unanimously adopted.

Complete text of Resolution No. 84-107 will be found in Resolution Book No. 14 at page ~~353~~. 360

Councilman Boland noted that during the pre-Council meeting he requested a work session on the enforcement of loitering ordinances on residential streets and cleaning of vacant lots. He requested that the new Environmental Control Officer, employed by the County of Buncombe be present at the meeting.

Mayor McDevitt requested that the Corporation Counsel look into the possibility of combining the City of Asheville Litter Control Ordinance with the County's. He also requested that the Corporation Counsel make sure that the officer employed by the County is properly empowered to enforce the City's ordinance. He requested that the Corporation Counsel give this report at next week's meeting.

RESOLUTION NO. 84-108 - RESOLUTION AUTHORIZING THE BARRICADING OF A PORTION OF CHURCH STREET ON JULY 14, 1984, FOR "A SHARING AFFAIR"

6. Consideration was given to a resolution authorizing the barricading of a portion of Church Street on July 14, 1984, for "A Sharing Affair."

Mayor McDevitt said the Asheville-Buncombe Christian Ministry is sponsoring "A Sharing Affair" on Saturday, July 14, 1984, from 9:00 a.m. until 3:00 p.m. in order to benefit the disadvantaged in the City of Asheville. This event will take place on the grounds of Trinity Episcopal, Central Methodist, and First Presbyterian churches. The portion of Church Street to be blocked is that portion which borders the Central Methodist Church properties through the Trinity Episcopal Church properties (with the exception of Aston Street). The Asheville-Buncombe Christian Ministry has requested that the street be blocked from 6:00 a.m. until 5:00 p.m. Blocking of this street will not present any undue hardships to citizens and the barricades will be removed to permit access of emergency vehicles to the area.

Mayor McDevitt said copies of the resolution were previously distributed to members of Council and would not be read in its entirety unless there was a specific request to so.

Upon motion of Councilwoman Frank, seconded by Councilman Boland, Resolution No. 84-108 was unanimously adopted.

Complete text of Resolution No. 84-108 will be found in Resolution Book No. 14 at page ~~364~~. 361

Mayor McDevitt closed the public hearing at 4:43 p.m.

Mayor McDevitt noted that since Dr. Scully had withdrawn his request to rezone the property in question, no action on the petition for rezoning would be in order.

ORDINANCE NO. 1450 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED. (PROPERTY LOCATED ON EMMA ROAD)

3. Consideration was given to the third reading of Ordinance No. 1450, an ordinance amending Ordinance No. 322, known as "An ordinance providing for the zoning of the City of Asheville," as amended (property located on Emma Road).

Mayor McDevitt said this ordinance was previously read on first and second reading and would not be reread in its entirety unless there was a specific request to do so.

On a roll call vote of 7-0, Ordinance No. 1450 passed on third and final reading.

Complete text of Ordinance No. 1450 will be found in Ordinance Book No. 10 at page ~~191.~~ 157 JL

ORDINANCE NO. 1451 - AN ORDINANCE AMENDING SECTION 19-A (A) OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE (EMPLOYEE GRIEVANCE PROCEDURE)

4. Consideration was given to the third reading of Ordinance No. 1451, an ordinance amending Section 19-A - 11 (A) of the Code of Ordinances of the City of Asheville (Employee Grievance Procedure).

Mayor McDevitt said this ordinance was previously read on first and second reading and would not be reread in its entirety unless there was a specific request to do so.

On a roll call vote of 7-0, Ordinance No. 1451 passed on third and final reading.

Complete text of Ordinance No. 1451 will be found in Ordinance Book No. 10 at page ~~192.~~ 158 and 159 JL

RESOLUTION NO. 84-107 - RESOLUTION AUTHORIZING THE BARRICADING OF SHORT TREMONT STREET

5. Consideration was given to a resolution authorizing the barricading of Short Tremont Street.

Mayor McDevitt said the residents of Short Tremont Street who own property adjacent to Lot 103, Ward 6, Sheet 6 have requested that barricades be placed at the Short Tremont Street entrances and exits to said property to prevent the use of the lot for loitering and storage of discarded vehicles, appliances, and other unsightly items, as well as the use of the lot for other improper purposes. Ownership of this property (Ward 6, Sheet 6, Lot 103) now rests with the Buncombe County Board of Tax

Recognition Program for Community Development Partnerships in relation to the Home Improvement Loan Program. He said the award would be presented at a ceremony on July 12, 1984 in Washington, D.C.

RESOLUTION NO. 84-110 - RESOLUTION AUTHORIZING THE DIRECTOR OF PUBLIC WORKS TO ENTER INTO AN ENCROACHMENT AGREEMENT WITH THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION FOR DRAINAGE IMPROVEMENTS TO TRINITY CHAPEL ROAD

9. Consideration was given to a resolution authorizing the Director of Public Works to enter into an encroachment agreement with the North Carolina Department of Transportation for drainage improvements to Trinity Chapel Road.

Mayor McDevitt explained the resolution.

Upon motion of Councilman Boland, seconded by Councilwoman Frank, Resolution No. 84-110 was unanimously adopted.

Complete text of Resolution No. 84-110 will be found in Resolution Book No. 14 at page 356.

MOTION RELATIVE TO ZUCHELLI, HUNTER AND ASSOCIATES, INC. CONTRACT

10. As previously discussed during the pre-Council meeting, Vice-Mayor Bratton moved to authorize the Mayor to send a letter of clarification to Zuchelli, Hunter and Associates, Inc. clarifying their contract with reference to the Pack Square Project. This motion was seconded by Councilman Bissette and carried unanimously.

Councilwoman Price suggested that the motion include authorization to include priorities in the letter. Vice-Mayor Bratton and Councilman Bissette accepted this amendment to the motion.

SCHEDULING PUBLIC HEARING - PACK PLAZA REDEVELOPMENT PLAN

11. Consideration was given to a motion scheduling a public hearing on the Pack Plaza Redevelopment Plan for July 24, 1984.

Councilman Bissette moved to schedule a public hearing on the Pack Plaza Redevelopment Plan for July 24, 1984. This motion was seconded by Councilwoman Frank and carried unanimously.

Council requested that notices of the public hearing be sent to all property owners in the area along with the redevelopment plan.

RESOLUTION NO. 84-111 - RESOLUTION TO CHANGE NAME OF McCORMICK STREET TO McCORMICK PLACE

Consideration was given to a resolution to change the name of McCormick Street to McCormick Place.

Mayor McDevitt read the resolution.

RESOLUTION NO. 84-109 - RESOLUTION AUTHORIZING EXECUTION OF PARTICIPATION AGREEMENTS FOR THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT RENTAL REHABILITATION PROGRAM DEMONSTRATION

7. Consideration was given to a resolution authorizing execution of participation agreements for the Department of Housing and Urban Development Rental Rehabilitation program demonstration.

NOTE: The City of Asheville has contracted with the Housing Authority of the City of Asheville to administer programs offering rehabilitation assistance to property owners in designated sections of the City through the use of Community Development Block Grant Funds. The Department of Housing and Urban Development has designated the City of Asheville as a Rental Rehabilitation Program Demonstration City for designating and implementing a program to encourage investment in rental residential property and provide rental assistance to low- and moderate-income residents. This resolution will authorize the Mayor to sign the necessary agreements in order to participate in the program. Funding for this program will come from previously committed Community Development Block Grant Funded Rehabilitation Programs in the amount of $50,000.

Larry Holt, Deputy Executive Director of the Asheville Housing Authority said this agreement will provide for ten units in the amount of $59,000 for rehabilitation grants.

Upon motion of Councilwoman Price, seconded by Councilman Bissette, Resolution No. 84-109 was unanimously adopted.

Complete text of Resolution No. 84-109 will be found in Resolution Book No. 14 at page ~~366~~. 367-369

SALE OF DISPOSAL PARCELS - EAST RIVERSIDE RENEWAL PROJECT - PARCEL 198

8. Consideration was given to the sale of disposal parcel 198 in the East Riverside Renewal Project.

The Housing Authority has tentatively accepted the following bids for disposal parcels in the East Riverside Renewal Project:

Parcel	Reuse	Price	Bid	Redeveloper
198	Residential	$1,620	$1,700	Jesse and Lynnette Maybin

Note: Lot 198 is a Dollar-A-Lot ($1.00) sale to an individual for the purpose of constructing a single-family residence.

Councilwoman Price moved to approve the sale of disposal parcel 198 as recommended by the Housing Authority. This motion was seconded by Councilwoman Frank and carried unanimously.

AWARD FOR NATIONAL EXCELLENCE - HOME IMPROVEMENT LOAN PROGRAM

Larry Holt, Deputy Executive Director of the Asheville Housing Authority, at the request of the Mayor, explained that the City of Asheville had received an Award for National Excellence, the highest award presented HUD's National

3. The recessed door at the front of the building has been secured, flush with the front of the building to prevent illicit use of the alcove.

4. All broken windows above street level (40-50) which were in danger of falling out on pedestrian traffic below have been entirely broken out to render them safe.

5. The building has been condemned and posted in accordance with General Statute 160A-426 and the North Carolina State Building Code.

6. Those legal actions required to gain long-term correction of the problem, through the absentee owner (The Church of Our Lord Jesus Christ of the Apostolic Faith) have been initiated. This process will probably be lengthy. We will continue to monitor until final actions are taken.

RALPH BISHOP - DOWNTOWN PROJECT

Ralph Bishop spoke to Council relative to his opposition to the proposed downtown projects.

ADJOURNMENT - EXECUTIVE SESSION

Vice-Mayor Bratton moved to adjourn the meeting to meet in Executive Session relative to personnel matters. This motion was seconded by Councilwoman Frank and carried unanimously.

Lacy McDevitt
MAYOR

Norman F. Wilcox
CITY CLERK

Upon motion of Councilwoman Price, seconded by Councilwoman Frank, Resolution No. 84-111 was unanimously adopted.

Complete text of Resolution No. 84-111 will be found in Resolution Book No. 14 at page ~~357~~. 371

RESOLUTION NO. 84-112 - RESOLUTION SUPPORTING THE WESTERN NORTH CAROLINA SOAP BOX DERBY AND AUTHORIZING THE CLOSING OF CERTAIN STREETS IN THE CITY OF ASHEVILLE FOR SAID EVENT

Consideration was given to a resolution supporting the Western North Carolina Soap Box Derby and authorizing the closing of certain streets in the City of Asheville for said event.

Mayor McDevitt explained the resolution.

Upon motion of Councilman Boland, seconded by Councilwoman Frank, Resolution No. 84-112 was unanimously adopted.

Complete text of Resolution No. 84-112 will be found in Resolution Book No. 14 at page ~~360~~. 373

SCHEDULING PUBLIC HEARING - AMENDMENT TO ZONING ORDINANCE - MONTFORD HISTORIC DISTRICT

Councilwoman Frank moved to schedule a public hearing relative to amending the zoning ordinance, Article 13 - Montford Historic District relative to obtaining Certificate of Appropriateness for July 31, 1984. This motion was seconded by Councilwoman Price and carried unanimously.

CLAIMS - CARROLL PAINTER (WATER MAINTENANCE) - WILLIAM CALLIHAN (WATER MAINTENANCE) - JAMES DUNCAN (SANITATION)

The City Manager presented claims received from Carroll Painter, William Callihan and James Duncan.

Mayor McDevitt referred the claims to the Corporation Counsel for investigation and recommendation.

REPORT RELATIVE TO PETITIONS RECEIVED BY COUNCIL - 441 HAYWOOD ROAD - AYCOCK SCHOOL

Mr. Lem Moore, Director of Inspections, presented the following report:

The following actions have been taken by the Inspections Division concerning the petition delivered to City Council June 26, 1984 in regards to the general condition and illicit activities going on in the vacant commercial building at the intersection of Haywood Road and Richmond Avenue (414 Haywood Road).

1. Area around the building has been cleaned up.

2. All means of entrance to the building, from street level, have been secured and made inaccessible to vagrants, vandals, etc.

PROCLAMATION - "OSTOMY AWARENESS MONTH" - AUGUST, 1984

Mayor McDevitt announced that a joint City and County proclamation was made relative to proclaiming August, 1984 as "Ostomy Awareness Month".

PROCLAMATION - SATURDAY, JULY 14, 1984 - "ENERGY FESTIVAL DAY"

Mayor McDevitt proclaimed Saturday, July 14, 1984 as "Energy Festival Day".

EXECUTION OF SUBORDINATION AGREEMENT - OLD HAYES AND HOPSON BUILDING - ESTATE OF JACK E. BRYANT, JANICE L. BRYANT AND WALLACE N. HYDE

Corporation Counsel Slawter noted that the City previously made a UDAG loan to Jack E. Bryant, Janice L. Bryant and Wallace N. Hyde, owners of the old Hayes & Hopson building for redevelopment. He said the first mortgage is currently being held by Northwestern Bank and the owners of the building have arranged more satisfactory loan arrangements with First Commercial Bank. He said they have requested the City to execute a subordination agreement to replace Northwestern Bank as first lien holder with First Commercial Bank. He said the City would be in the same position "security wise" with regard to its lien on the building.

At the request of Corporation Counsel Slawter, Vice-Mayor Bratton moved to authorize the Mayor to sign a subordination agreement whereby the rights of the City under the Deed of Trust recorded in Book 945, Page 601, will be subordinated to a new deed of trust in the sum of $570,000 in the Estate of Jack E. Bryant, Janice L. Bryant and Wallace N. Hyde, with First Commercial Bank being the first lien holder and to authorize the trustees to execute the subordination agreement. This motion was seconded by Councilman Bissette and carried unanimously.

Corporation Counsel Slawter said Mr. Logan Delany, Director of Community Development, said there would be no problems with the execution of the subordination agreement.

Councilwoman Price noted that the minutes should reflect that Councilman Myers is absent from the meeting and is not voting on this particular issue, and was not present during the discussions relative to the matter.

CLAIMS - STEPHANIE FAIN (WATER MAINTENANCE) - MARY ANN SNEDEKER (WATER MAINTENANCE) - KAREN VARNER - (WATER MAINTENANCE)

The City Manager presented claims received from Stephanie Fain, Mary Ann SneDeker and Karen Varner.

Mayor McDevitt referred the claims to the Corporation Counsel for investigation and recommendation.

Tuesday - July 10, 1984 - 4:00 p.m.

Regular Meeting

Present. Mayor Larry McDevitt, Presiding; Vice-Mayor Wilhelmina Bratton; Councilwomen Mary Lloyd Frank and Norma T. Price; Councilmen Walter R. Boland, and Louis Bissette; Corporation Counsel William F. Slawter; Acting City Manager William F. Wolcott, Jr.; Deputy City Clerk Carol Hensley.

Absent: Councilman Gordon Myers

INVOCATION

The invocation was given by Councilman Walter Boland.

APPROVAL OF THE MINUTES

1. Consideration was given to the approval of the minutes of the July 3, 1984 meeting.

Council requested the following amendments to the July 3, 1984 minutes:

Page 106, Minute Book No. 51, fifth paragraph to read as follows:

"Councilman Boland noted that during the Pre-Council meeting he requested a work session on the enforcement of loitering ordinances on residential streets and cleaning of vacant lots. He requested that the new Environmental Control Officer, employed by the County of Buncombe, be present at the meeting."

Page 107, Minute Book No. 51, tenth paragraph, motion relative to sale of disposal parcel to read as follows:

"Councilwoman Price moved to approve the sale of disposal parcel 198, as recommended by the Housing Authority. This motion was seconded by Councilwoman Frank and carried unanimously".

Page 108, Minute Book No. 50, seventh paragraph, motion relative to Zuchelli, Hunter and Associates, Inc. contract to read as follows:

" as previously discussed during the Pre-Council meeting, Vice-Mayor Bratton moved to authorize the Mayor to send a letter of clarification to Zuchelli, Hunter and Associates, Inc. clarifying their contract with reference to the Pack Square Project. This motion was seconded by Councilman Bissette and carried unanimously.

Councilwoman Price suggested that the motion include authorization to include priorities in the letter. Vice-Mayor Bratton and Councilman Bissette accepted this amendment to the motion."

Mayor McDevitt noted that approval of the July 3, 1984 minutes would be on the agenda for July 17, 1984, after the above named changes were made to the minutes.

Tuesday - July 17, 1984 - 4:00 p.m.

Regular Meeting

Present: Mayor Larry McDevitt, Presiding; Vice-Mayor Wilhelmina Bratton; Councilmen Mary Lloyd Frank and Norma T. Price, and Walter R. Boland; Corporation Counsel William F. Slawter; Acting City Manager William F. Wolcott, Jr.; Deputy City Clerk Carol Hensley.

Absent: Councilmen Gordon Myers and Louis Bissette.

INVOCATION

The invocation was given by Councilman Norma Price.

APPROVAL OF THE MINUTES - JULY 3, 1984, AS AMENDED

1. Consideration was given to the approval of the minutes of the July 3, 1984, meeting, as amended.

Upon motion of Councilman Price, seconded by Councilman Frank, the July 3, 1984, minutes, as amended, were unanimously approved.

APPROVAL OF THE MINUTES - JULY 10, 1984

2. Consideration was given to the approval of the minutes of the July 10, 1984, meeting.

Upon motion of Councilman Price, seconded by Councilman Boland, the minutes of the July 10, 1984, meeting were unanimously approved as submitted.

AMENDMENT TO THE JUNE 19, 1984 MINUTES

3. Mayor McDevitt moved to amend the Council minutes of June 19, 1984, as follows:

"MOTION TO AMEND THE CITY COUNCIL MINUTES OF JUNE 19, 1984, PAGE 93, RELATIVE TO RESOLUTION NO. 84-101 - RESOLUTION APPROVING THE ASHEVILLE/ BUNCOMBE WATER AUTHORITY BUDGET FOR FISCAL YEAR 1984-85 AS FOLLOWS:

Consideration was given to a resolution approving the Asheville/ Buncombe Water Authority Budget for Fiscal Year 1984-85.

Prior to the formal Council meeting, the Mayor, at the Pre-Council meeting, notified members of the Council that since his law partner represents the Water Authority, he would not be able to vote on the Water Authority Budget and would ask to be excused.

At the formal meeting, Mayor McDevitt read the resolution.

LAWSUITS - ALVIN FATE, JR.

The City Manager said the City was served with a summons in connection with a lawsuit involving Alvin Fate, Jr. relative to an appeal to Superior Court of Board of Adjustment decision to place mobile home on lot zoned R-3 Residential.

Mayor McDevitt referred the summons to the Corporation Counsel for investigation and recommendation.

RALPH BISHOP - EMPLOYMENT OF CITY MANAGER AND LOTTERY SALES

Ralph Bishop spoke to members of Council relative to their employment of a new city manager and problems of lottery sales in the City of Asheville.

EXECUTIVE SESSION

Councilwoman Frank moved that Council go into executive session to discuss a real estate and personnel matter. This motion was seconded by Councilwoman Price and carried unanimously.

MOTION RELATIVE TO 1984-85 PAVING PROGRAM

Councilwoman Frank moved that the Engineering Division proceed with contracting for the 1984-85 Paving Program as recommended by the Engineering and Public Works Department, for both the City streets and Riverside Cemetery, and to report back for further consideration after bids have been received. This motion was seconded by Councilwoman Price and carried unanimously.

ADJOURNMENT

Upon motion of Councilman Boland, seconded by Councilwoman Price, the meeting adjourned at 4:45 p.m.

Tom McDevitt
MAYOR

William F. Malcolm
CITY CLERK

The City Manager presented the notice to the public, setting the time and date for the public hearing, and the affidavit of publication. He also presented an affidavit from Larry Ward, with the Public Works Department, indicating that the portion of Charles Street proposed to be closed was posted in two locations, as required by N.C. General Statutes.

Larry Ward, with the Public Works Department, said residents of Charles Street had requested the closing of the lower portion of Charles Street which serves the South French Broad School and the YWCA. He said from all indications, there were no major problems with closing this portion of Charles Street.

Robert E. Fields, of 17 Charles Street, spoke in support of closing the portion of Charles Street. He questioned as to how the street would be closed. He said the residents on Charles Street would rather have both ends of Charles Street closed at the school cafeteria and at Timothy Street. He said the residents had requested this closing for protection in the area. He said there were problems with prostitutes, drugs, nudity, drinking, and break-ins. He said the residents were unable to get police protection in this area. He said the residents felt that if Charles Street were closed, it might take care of this problem.

Mr. Ward explained that when the street is closed, the property would revert to the Asheville City School Board and the YWCA. He said they would be responsible for the manner in which the street would be closed. He said it was his understanding that Dr. Jones, with the Asheville City Schools, intends to put up a gate for the closing that could be opened if needed for school events.

Councilman Boland suggested that the City staff coordinate the closing with the YWCA and the Asheville City Board of Education.

Vice-Mayor Bratton requested that the City Manager check with the Asheville Police Department relative to the complaints voiced by Mr. Fields.

Mayor McDevitt closed the public hearing at 4:26 p.m.

Mayor McDevitt said copies of the resolution were previously distributed to members of Council, and it would not be read in its entirety unless there was a specific request to do so.

Upon motion of Councilman Frank, seconded by Councilman Boland, Resolution No. 84-113 was unanimously adopted.

Complete text of Resolution No. 84-113 will be found in Resolution Book No. 14 at page ~~359~~ and ~~360~~. 373-374 X

PUBLIC HEARING - WORDING AMENDMENT TO ZONING ORDINANCE - PROVIDING SETBACK AND HEIGHT REQUIREMENTS FOR CANOPIES

Upon motion of Councilman Price, seconded by Councilman Bissette, Resolution No. 84-101 was unanimously adopted.

After discussion, Mayor McDevitt pointed out while he had not voted on the Water Authority Budget, he failed to seek formal Council approval excusing him from voting due to a conflict he had earlier discussed with Council.

Councilman Price moved to reconsider the vote on the Water Authority Budget. This motion was seconded by Councilman Bissette and carried unanimously.

Mayor McDevitt requested that he be excused from voting on the Water Authority Budget.

Councilman Price moved to excuse Mayor McDevitt from voting on the Water Authority Budget. This motion was seconded by Councilman Bissette and carried unanimously.

Councilman Price moved to approve the Water Authority Budget, adopting Resolution No. 84-101. This motion was seconded by Councilman Bissette, motion passing on a 5-0 vote with Mayor McDevitt being excused from the vote.

Complete text of Resolution No. 84-101 will be found in Resolution Book No. 14 at page 346."

RECOGNITION OF FOREIGN EXCHANGE STUDENTS - MR. GERHARD FIEGL - MISS CATINNA SORAVIA

Dr. Tom Jones, with the West Asheville Rotary Club, introduced two foreign exchange students, Mr. Gerhard Fiegl, from the University of Vienna, and Miss Catinna Soravia, from the University of Graz.

Mayor McDevitt presented letters of welcome to the two foreign exchange students.

PUBLIC HEARING - CLOSING A PORTION OF CHARLES STREET

RESOLUTION NO. 84-113 - RESOLUTION TO CLOSE A PORTION OF CHARLES STREET IN THE CITY OF ASHEVILLE, NORTH CAROLINA

3. A public hearing was held relative to closing a portion of Charles Street.

Mayor McDevitt said the City Council received a petition from Dr. Donald Jones, Superintendent of Asheville City Schools, and Mary Ann Richards, Executive Director of the Young Womens Christian Association, requesting that a portion of Charles Street be closed. A public hearing is required by N.C. General Statutes in order to close an alley or street. City Council adopted Resolution No. 84-94, a Resolution of Intent to close a portion of Charles Street and calling a public hearing on the question for July 17, 1984.

Mayor McDevitt opened the public hearing at 4:11 p.m.

Company for Mr. Marshall Kanner, Developer, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of the site plan to City Council subject to compliance with the Erosion Control Ordinance and completion of final grading plan.

Verl Emrick, Director of Planning, said the Bingham Heights Mobile Home Park is located in the newly annexed area. He said Phase I would consist of 36 units. He said water and sewer are available for the 36 units. He said the proposed plan for Phase I of the project meets all conditions of the Zoning Ordinance, subject to compliance with the Erosion Control Ordinance.

Councilman Boland said he would like for Council to look into alternatives to mobile home parks. He said Council might consider low- and moderate-income housing which might be available through the North Carolina Housing Finance Agency. He said Council should consider the best possible housing and the aesthetic affect on the City.

Upon inquiry of Councilman Price, Mr. Emrick said before the developers expand their project beyond Phase I, Council would have to approve further expansions.

Mayor McDevitt closed the public hearing at 4:37 p.m.

Councilman Boland moved to approve the site plan for Phase I of Bingham Heights Mobile Home Park as recommended by the Planning and Zoning Commission. This motion was seconded by Councilman Price and carried unanimously.

PUBLIC HEARING - REZONING PROPERTY LOCATED AT 896 FAIRVIEW ROAD

ORDINANCE NO. 1453 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED (REZONING PROPERTY ON FAIRVIEW ROAD FROM R-3 RESIDENTIAL DISTRICT TO CG COMMERCIAL GENERAL DISTRICT

6. A public hearing was held relative to rezoning property located at 896 Fairview Road.

Mayor McDevitt said at a meeting held on June 6, 1984, the Planning and Zoning Commission considered the request of Mr. and Mrs. J. C. Laughter that Ward 7, Sheet 27, Lot 75, be rezoned from R-3 Residential District to CG Commercial General District. This property is located at 896 Fairview Road. After review and discussion, the Commission voted to recommend to City Council that Ward 7, Sheet 27, Lot 75 be rezoned from R-3 Residential District to CG Commercial District.

Mayor McDevitt opened the public hearing at 4:38 p.m.

The City Manager presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said this rezoning would clear up a non-conforming use situation. He said as it is presently zoned, the property is unusable.

ORDINANCE NO. 1452 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED (WORDING AMENDMENT - CANOPIES/SERVICE STATIONS)

4. A public hearing was held relative to a proposed wording amendment to the Zoning Ordinance (providing setback and height requirements for canopies).

Mayor McDevitt said the Asheville Planning and Zoning Commission at a meeting held on June 6, 1984, considered a proposed wording amendment to the Zoning Ordinance to provide setback and height requirements for canopies used as ancillary structures for service stations, garages, and convenience stores. After review and discussion, the Commission voted to recommend to City Council that Development Standards in Sections 30-5-8, 30-5-9, and 30-5-10 be amended to include this use. This public hearing was scheduled by a motion of City Council at the June 12, 1984, meeting.

Mayor McDevitt opened the public hearing at 4:28 p.m.

The City Manager presented the notice to the public, setting the time and date for the public hearing, and the affidavit of publication.

Verl Emrick, Director of Planning, said the Zoning Board of Adjustment is having numerous cases requesting variances of the requirement for a 35-foot setback on canopies. He said the proposed amendment would allow a 20-foot setback requirement from the curb line to the overhang of canopies in all commercial zones. He said the maximum height would be 20 feet. He said that Bob McDonald, Traffic Engineer, has no problem with this proposed amendment as far as street safety is concerned.

Mayor McDevitt closed the public hearing at 4:32 p.m.

Mayor McDevitt said members of Council were previously furnished copies of the ordinance, and it would not be read in its entirety unless there was a specific request to do so.

Councilman Price moved for the adoption of Ordinance No. 1452. This motion was seconded by Councilman Frank.

On a roll call vote of 5-0, Ordinance No. 1452 passed on first reading.

PUBLIC HEARING - SITE PLAN FOR PHASE I OF BINGHAM HEIGHTS MOBILE HOME PARK

5. A public hearing was held relative to the site plan for Phase I of Bingham Heights Mobile Home Park.

Mayor McDevitt said at a meeting held on June 6, 1984, the Planning and Zoning Commission reviewed the site plan of Bingham Heights Mobile Home Park for 36 of 91 proposed pads. The plan was prepared by Pankow Engineering

Mayor McDevitt said Section 25-5 of the Code makes it unlawful "for any person to sell, offer for sell, exhibit or demonstrate any goods, wares, merchandise, mechanical devices, animals or any article of any kind whatsoever, by whatsoever name called, upon any public street, sidewalk, square, avenue or alley within the City." This provision is in conflict with the interest of the City in facilitating certain community events and festivals, upon its public streets, sidewalks, squares, avenues, or alleys within the City. This ordinance will allow the City Manager to give written permission to any group or individual to hold a festival or event in the City, and allowing them to sell on the streets, sidewalks, squares, avenues, or alleys within the City.

Mayor McDevitt said members of Council were previously furnished copies of the ordinance, and it would not be read in its entirety unless there was a specific request to do so.

Councilman Frank moved for the adoption of Ordinance No. 1455. This motion was seconded by Councilman Price.

On a roll call vote of 5-0, Ordinance No. 1455 passed on first reading.

Councilman Price moved to suspend the rules and proceed to the second reading of Ordinance No. 1455. This motion was seconded by Councilman Boland and carried unanimously.

On a roll call vote of 5-0, Ordinance No. 1455 passed on second reading.

RESOLUTION NO. 84-114 - RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF ASHEVILLE TO SIGN A FIELD TEST SPONSOR AGREEMENT WITH NORTH CAROLINA ALTERNATIVE ENERGY CORPORATION

9. Consideration was given to a resolution authorizing the Mayor of the City of Asheville to sign a Field Test Sponsor Agreement with North Carolina Alternative Energy Corporation.

Mayor McDevitt said, by Resolution No. 83-135, the Mayor was authorized to sign a Letter of Agreement with the Land-of-Sky Regional Council for the Local Government Energy Officer Program. As a part of this program, the City of Asheville and the County of Buncombe, as co-sponsors, submitted a proposal to the North Carolina Alternative Energy Corporation to participate in the Model Energy Efficiency Financing Field Test. The North Carolina Alternative Energy Corporation, by letter dated May 7, 1984, has informed Mr. James Stokoe, the Local Government Energy Officer, that the Asheville/Buncombe County proposal has been selected. This resolution will authorize the Mayor to sign a Field Test Sponsor Agreement with the North Carolina Alternative Energy Corporation.

Mayor McDevitt said members of Council were previously furnished copies of the ordinance, and it would not be read in its entirety unless there was a specific request to do so.

Mayor McDevitt closed the public hearing at 4:42 p.m.

Mayor McDevitt said members of Council were previously furnished copies of the ordinance, and it would not be read in its entirety unless there was a specific request to do so.

Councilman Price moved for the adoption of Ordinance No. 1453. This motion was seconded by Councilman Frank.

On a roll call vote of 5-0, Ordinance No. 1453 passed on first reading.

PUBLIC HEARING - REZONING SEVERAL LOTS IN THE MONTFORD AREA

ORDINANCE NO. 1454 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED (MONTFORD AREA - ADDITIONAL LOTS)

7. A public hearing was held relative to rezoning several lots in the Montford area.

Mayor McDevitt said several lots were inadvertently left out during the original advertisement of the Montford Area rezoning. These properties include Ward 3, Sheet 2, Lots 149-1/2, 271, 272, 275-3/4, 294, and 295. These properties will be rezoned from CBD Central Business District to R-4 Residential District as originally intended.

Mayor McDevitt opened the public hearing at 4:44 p.m.

The City Manager presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

There being no comments, Mayor McDevitt closed the public hearing at 4:45 p.m.

Mayor McDevitt said members of Council were previously distributed copies of the ordinance, and it would not be read in its entirety unless there was a specific request to do so.

Councilman Boland moved for the adoption of Ordinance No. 1454. This motion was seconded by Councilman Price.

On a roll call vote of 5-0, Ordinance No. 1454 passed on first reading.

ORDINANCE NO. 1455 - AN ORDINANCE AMENDING CHAPTER 25 OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE (SELLING ON STREETS AND SIDEWALKS)

8. Consideration was given to an ordinance amending Section 25 of the Code of Ordinances of the City of Asheville (Selling on Streets and Sidewalks).

Mayor McDevitt said Chapter 160A-20 of the NCGS provides for the purchase of personal property by installment contracts which create in the property purchased, a security interest to secure payment of the purchase money. The City Council approved the purchase of three each, refuse collection vehicles from Western Carolina Truck Center, Inc. in the amount of $233,273.40 on April 10, 1984. The Purchasing Director has received eleven proposals for the lease/purchase financing of this equipment. A monthly lease/purchase contract would yield an estimated savings of $12,404.00 over a cash purchase. This resolution will authorize the Finance Director to execute a lease/purchase agreement with Northwestern Bank for a lease/purchase contract for three refuse collection vehicles to finance a purchase price of $233,273.40 for 36 monthly payments in the amount of $7,337.42.

Mayor McDevitt said members of Council were previously furnished copies of the resolution, and it would not be read in its entirety unless there was a specific request to do so.

Corporation Counsel Slawter indicated that the lease/purchase agreement, as presently written, does not include all necessary language as suggested by the Attorney for the Institute of Government. He suggested that the resolution be approved subject to final approval of the lease/purchase agreement by the Corporation Counsel.

Mayor McDevitt said his law firm is General Counsel for Northwestern Bank of Western North Carolina and requested that he be excused from voting on the resolution due to a conflict of interest.

Councilman Price moved to excuse Mayor McDevitt from voting on Resolution No. 84-116. This motion was seconded by Councilman Frank and carried unanimously.

Councilman Frank moved for the approval of Resolution No. 84-116 subject to the language of the lease/purchase agreement being approved by the Corporation Counsel. This motion was seconded by Councilman Price and carried unanimously.

Complete text of Resolution No. 84-116 will be found in Resolution Book No. 14 at page 365.

RESOLUTION NO. 84-117 - RESOLUTION AUTHORIZING THE PURCHASING DIRECTOR TO SELL SURPLUS MOTOR VEHICLES AT PUBLIC AUCTION

12. Consideration was given to a resolution authorizing the Purchasing Director to sell surplus motor vehicles at public auction.

Mayor McDevitt said Chapter 160A-270 of the NCGS provides for the sale of surplus personal property at public auctions. The Motor Transport Superintendent has declared 14 motor vehicles as surplus. The City has no further use for them. This resolution will authorize the public auction of 14 motor vehicles. Said auction to take place at the new vehicle maintenance facility, South Charlotte Street, beginning at 10:00 a.m. on Saturday, the 4th day of August, 1984.

Upon inquiry of Coucilman Price, Larry Fisher, Director of Finance said the time frame for the project would be two months.

Upon motion of Councilman Boland, seconded by Councilman Price, Resolution No. 84-114 was unanimously adopted.

Complete text of Resolution No. 84-114 will be found in Resolution Book No. 14 at Page ~~361.~~ 375

RESOLUTION NO. 84-115 - RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT FOR TRANSPORTATION PLANNING SERVICES WITH THE LAND-OF-SKY REGIONAL COUNCIL

10. Consideration was given to a resolution authorizing the Mayor to enter into a contract for transportation planning services for the Land-of-Sky Regional Council.

Mayor McDevitt said the Asheville Urban Area Unified Work Program for 1984-85 has been approved to include a total of $38,790 in Section 112 planning funds for the purpose of street and highway planning. Said funds are allocated to various departments and agencies within the planning area for completion of work program tasks. For timely completion of the Unified Work Program tasks, it is deemed appropriate to designate a portion of the Section 112 planning funds for the Land-of-Sky Regional Council for carrying out specific segments of the program. This resolution will authorize the Mayor to enter into a contract with Land-of-Sky Regional Council for completion of four transportation planning work elements identified in the agreement in an amount not to exceed Three Thousand, Sixty Dollars ($3,060.00).

Mayor McDevitt said members of Council were previously furnished copies of the ordinance, and it would not be read in its entirety unless there was a specific request to do so.

Ralph Bishop asked members of Council who, at the Land-of-Sky, would be providing these services. He questioned why the City of Asheville always turns to the Land-of-Sky for help.

Mayor McDevitt explained to Mr. Bishop the function of the Land-of-Sky Regional Council and told him he would find out the individual's name that would be working on the transportation planning services.

Upon motion of Councilman Frank, seconded by Councilman Boland, Resolution No. 84-115 was unanimously adopted.

Complete text of Resolution No. 84-115 will be found in Resolution Book No. 14 at Page ~~362.~~ 376

RESOLUTION NO. 84-116 - RESOLUTION AUTHORIZING THE FINANCE DIRECTOR TO EXECUTE AN AGREEMENT FOR LEASE/PURCHASE FINANCING FOR THREE REFUSE COLLECTION VEHICLES

11. Consideration was given to a resolution authorizing the Finance Director to execute an agreement for lease/purchase financing for three refuse collection vehicles.

PETITION - RESIDENTS OF TANGLEWOOD DRIVE - DOGS

Mayor McDevitt presented members of Council with a petition received from residents on Tanglewood Drive requesting removal of vicious pit bulldogs at 18 Tanglewood Drive.

Corporation Counsel Slawter said the residents of 18 Tanglewood Drive had been contacted, and he had received a response from their attorney indicating that they were not in violation of the Kennel Provisions of the Revenue Ordinance. He said he would look into other violations noted in the petition.

CLAIMS - JAMES PETERSON (SEWER) - BETTY JERECKI (SEWER) - LOUISE VARNER (WATER) - GARY BANCROFT (POLICE) - BARBARA FOWLER (STREETS)

The City Manager presented claims received from James Peterson, Betty Jerecki, Louise Varner, Gary Bancroft, and Barbara Fowler.

Mayor McDevitt referred the claims to the Corporation Counsel for investigation and recommendation.

LAWSUIT - ROBERT CANSLER

The City Manager said the City was served with a summons in connection with the lawsuit involving Robert Cansler, appeal from Board of Adjustment denial of variance.

Mayor McDevitt referred the summons to the Corporation Counsel for investigation and recommendation.

COMPLAINT FROM SADIE SPRINKLE - BEAVER DRIVE

Sadie Sprinkle of Beaver Drive spoke to members of Council relative to the residents on Beaver Drive having problems with water damage. She requested the City get rid of the big trees in the area and dig a ditch on the east side of the road to eliminate water damage to her neighbor's house. She said the tree limbs are lapping across the street and need to be trimmed.

Council requested that the City Manager look into the situation and report his findings back to Council.

RALPH BISHOP - COMMENTS RELATIVE TO CITY MANAGER - STRUCTURE ON PACK PLAZA

Ralph Bishop spoke to Council relative to their appointment of the new City Manager and relative to the structure on Pack Plaza.

EXECUTIVE SESSION

Vice-Mayor Bratton moved that Council go into Executive Session to discuss a real estate matter. This motion was seconded by Councilman Frank and carried unanimously.

Mayor McDevitt said members of Council were previously furnished copies of the resolution, and it would not be read in its entirety unless there was a specific request to do so.

Upon motion of Councilman Price, seconded by Councilman Frank, Resolution No. 84-117 was unanimously adopted.

Complete text of Resolution No. 84-117 will be found in Resolution Book No. 14 at page ~~364~~. 378

APPROVAL OF SALE OF DISPOSAL PARCEL #4 IN EAST RIVERSIDE RENEWAL PROJECT

13. Consideration was given to a motion approving sale of Disposal Parcel #4 in the East Riverside Renewal Project.

Mayor McDevitt said the Housing Authority has tentatively accepted the following bids for Disposal Parcel #4 in the East Riverside Renewal Project.

Reuse	Price	Bid	Redeveloper
Commercial	$40,000	$40,000	Hilliard Avenue Partnership

The above bidders have proposed to construct a masonry office building between 6,400 and 6,500 sq. ft. The architect-designed building will be brick contemporary with a truss roof. The tenants will be Waddell, Sluder, Adams, and Company, and Maryland Casualty Company. The current number of employees for both concerns is twenty-four. Adequate parking will be made available.

Mayor McDevitt said Council members had previously discussed the sale of this property. He said from all indications, South French Broad would be widened to three lanes. He said Council had questioned whether or not the sale of this parcel would take necessary right-of-way for the widening of South French Broad.

Larry Holt, Deputy Executive Director for the Asheville Housing Authority, said there should be sufficient right-of-way available for the widening of South French Broad even though the City approved the sale of this property.

The City Manager said the Traffic Engineer is now looking into the proposed widening of South French Broad.

After discussion, it was the consensus of Council to continue action on this matter until July 24, 1984, giving the Traffic Engineer an opportunity to look into the situation to assure Council that sufficient right-of-way would be available for widening South French Broad.

VICE-MAYOR BRATTON PRESENTED AWARD RECEIVED FROM THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Vice-Mayor Bratton presented City Council with an award from the Department of Housing and Urban Development entitled "A National Award of Excellence." She said she had received the award, on behalf of the City of Asheville, in connection with the Home Improvement Loan Program being administered by the Asheville Housing Authority.

Tuesday - July 24, 1984 - 4:00 p.m.

Regular Meeting

Present: Mayor Larry McDevitt, Presiding; Vice-Mayor Wilhelmina Bratton; Councilmen Mary Lloyd Frank and Norma T. Price, Walter R. Boland, Gordon Myers, and Louis Bissette; Corporation Counsel William F. Slawter; Acting City Manager William F. Wolcott, Jr.; Deputy City Clerk Carol Hensley.

Absent: None.

INVOCATION

The invocation was given by Councilman Norma T. Price.

APPROVAL OF THE MINUTES - JULY 17, 1984

1. Consideration was given to the approval of the minutes of the July 17, 1984, meeting.

Upon motion of Councilman Price, seconded by Vice-Mayor Bratton, the minutes of the July 17, 1984, meeting were unanimously approved as submitted.

PROCLAMATION - "ASHEVILLE SWIM ACROSS WEEK" - AUGUST 4 - 10, 1984

2. Mayor McDevitt proclaimed the week of August 4-10, 1984 as "Asheville Swim Across Week."

John Miall, with the Management Services Division, introduced individuals working with the Asheville Red Cross in "Asheville Swim Across Week."

Mayor McDevitt presented the proclamation to the individuals involved in the "Asheville Swim Across Week."

PUBLIC HEARING - PACK PLAZA REDEVELOPMENT PLAN

3. A public hearing was held on the Pack Plaza Redevelopment Plan.

Mayor McDevitt said the plan will outline the way in which existing property will be reused in the redevelopment project and will include provisions for property acquisition. The plan must be approved by the Housing Authority of the City of Asheville, the Planning and Zoning Commission, and the City of Asheville before the Pack Plaza Project can continue.

Mayor McDevitt opened the public hearing at 5:12 p.m.

The City Manager presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

ADJOURNMENT

Upon motion of Councilman Price, seconded by Councilman Frank, the meeting adjourned at 5:45 p.m.

MAYOR

CITY CLERK

The following individuals spoke in favor of the Pack Plaza Redevelopment Plan:

Dick Gilbert, Co-owner of Stone Soup and business on Walnut and Broadway
Steve Bowman, with Beverly-Hanks Realty
Matthew Bacoate, local businessman and citizen
Doug Swaim, resident of Asheville and member of Historic Preservation Society
Daphne Hooker, resident of Asheville
Roger McGuire, resident of the City
Garrett Alderfer, with the Chamber of Commerce

Vice-Mayor Bratton, Councilman Boland, Councilman Price, Councilman Bissette, and Councilman Frank made comments relative to their their full support of the Redevelopment Plan for Pack Plaza.

Mayor McDevitt closed the public hearing at 6:50 p.m.

RESOLUTION NO. 84-118 - RESOLUTION APPROVING THE REDEVELOPMENT PLAN FOR THE PACK PLAZA REDEVELOPMENT PROJECT, DATED JULY, 1984, AS SUBMITTED BY THE HOUSING AUTHORITY OF THE CITY OF ASHEVILLE IN ITS ROLE AS A REDEVELOPMENT COMMISSION

Mayor McDevitt read the resolution.

Upon motion of Vice-Mayor Bratton, seconded by Councilman Price, Resolution No. 84-118 was unanimously adopted.

Complete text of Resolution No. 84-118 will be found in Resolution Book No. 14 at page 379 and 380.

RESOLUTION NO. 84-119 - RESOLUTION ESTABLISHING A POLICY GOVERNING CITY COUNCIL APPOINTMENTS

4. Consideration was given to a resolution establishing a policy governing City Council appointments.

Mayor McDevitt said the Council has developed a policy to encourage the widest possible participation by the citizens of Asheville on the City's various appointed bodies. This resolution will establish such a policy.

Mayor McDevitt said members of Council were previously furnished copies of the resolution, and it would not be read in its entirety unless there was a specific request to do so.

Upon motion of Councilman Frank, seconded by Councilman Bissette, Resolution No. 84-119 was unanimously adopted.

Complete text of Resolution No. 84-119 will be found in Resolution Book No. 14 at page 381 and 382.

Councilman Frank was excused from the meeting at 7:00 p.m.

Verl Emrick, Director of Planning, said the Pack Plaza Redevelopment Plan is a combination of efforts by the Asheville City Council, the Downtown Commission, and residents in the South Pack Square area for the redevelopment of the Pack Plaza area. He said, in this process, the Asheville Housing Authority was designated as the Redevelopment Agency for the City, and instructed to prepare the proposed the Pack Plaza Redevelopment Plan. He said the City Council must adopt the redevelopment plan to be presented to the Department of Housing and Urban Development for final approval of the UDAG grant.

Larry Holt, Deputy Executive Director of the Asheville Housing Authority, said copies of the Redevelopment Plan were furnished to the property owners in the Pack Plaza area. He said the Housing Authority and the Planning and Zoning Commission had adopted the Plan. He briefly outlined the plan; which included the description of the area; existing and proposed land use; existing and proposed population; density, land coverage and building intensities; site plan descriptions and project improvements; methods of financing and estimated costs; administration and project schedule; acquisition, relocation and disposition of the properties; and maps describing each area.

Mayor McDevitt said members of Council had previously discussed amending the Redevelopment Plan to change Lots 21 and 22 on Map #7 in the Plan from "Property to be Acquired by the Housing Authority" to "Property Scheduled for Conservation and Rehabilitation." He said Council also felt that the project's "Activity Schedule" should be changed pending final approval of UDAG funding from the Housing and Urban Development office. He said Council is not willing to proceed with aquisition/relocation until final approval is received from the Department of Housing and Urban Development.

Mr. Holt indicated that language in the Plan provided that the Housing Authority would not begin aquisition/relocation until notification to proceed is received from the City.

Betty Daughtridge, owner of the old Pack Library Building, said her property is marked for aquisition by the City in the proposed Redevelopment Plan. She objected to her property being included on the Aquisition list, and said she wished to renovate the building with private funding. She said all the property owners in the area have not been treated equal. She said they should have had an opportunity to decide whether to relocate or not, and this opportunity should have been given to each and every property owner. She requested that her building be removed from the Aquisition list.

These additional individuals spoke in opposition to the proposed Pack Plaza Redevelopment Plan.

Ralph Bishop
Gus
June Bassett, with Finklestein's
Richard Brown, owner of businesses on Pack Square
Robert Daughtridge
Kathy Rush, owner of property on South Pack Square
Mr. Bunn, with Bunn's Antique Shop on Biltmore Avenue

Vice-Mayor Bratton said this ordinance was previously read on first reading and would not be re-read in its entirety unless there was specific request to do so.

On a roll call vote of 6-0, Ordinance No. 1454 passed on second reading.

ORDINANCE NO. 1455 - AN ORDINANCE AMENDING CHAPTER 25 OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE (SELLING ON STREETS AND SIDEWALKS)

8. Consideration was given to the third reading of Ordinance No. 1455, an ordinance amending Chapter 25 of the Code of Ordinances of the City of Asheville (Selling on Streets and Sidewalks).

Vice-Mayor Bratton said this ordinance was previously read on first and second reading and would not be re-read in its entirety unless there was a specific request to do so.

At the request of the Corporation Counsel, Councilman Price moved to amend Ordinance No. 1455 to include the following:

> (G) "Notwithstanding any provisions contained in the Revenue Ordinance (Ordinance No. 1027, as amended), authorized participants in a community event or festival for which a permit has been issued shall not be required to obtain a City of Asheville Privilege License for the period during which the community event or festival takes place."

This motion was seconded by Councilman Bissette and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1455 passed on third reading as amended.

Complete text of Ordinance No. 1455 will be found in Ordinance Book No. 10 at page ~~198~~ and ~~199.~~ 165 and 166

APPROVAL OF SALE OF DISPOSAL PARCEL #4 - EAST RIVERSIDE RENEWAL PROJECT

9. Consideration was given to a motion approving the sale of disposal parcel #4 in the East Riverside Renewal Project.

Vice-Mayor Bratton said the Housing Authority has tentatively accepted the following bids for disposal parcel #4 in the East Riverside Renewal Project.

Reuse	Price	Bid	Redeveloper
Commercial	$40,000	$40,000	Hilliard Avenue Partnership

ORDINANCE NO. 1452 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE" AS AMENDED (WORDING AMENDMENT - CANOPIES/SERVICE STATIONS)

5. Consideration was given to the second reading of Ordinance No. 1452, an Ordinance Amending Ordinance No. 322, known as "An Ordinance Providing for the Zoning of the City of Asheville" as amended (Wording Amendment - Canopies/
Service Stations).

Mayor McDevitt turned the meeting over to Vice-Mayor Bratton.

Vice-Mayor Bratton said this Ordinance was previously read on first reading and would not be re-read in its entirety unless there was a specific request to do so.

On a roll call vote of 6-0, Ordinance No. 1452 passed on second reading.

Councilman Price moved to suspend the rules and proceed to the second reading of Ordinance No. 1452. This motion was seconded by Councilman Boland and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1452 passed on third and final reading.

Complete text of Ordinance No. 1452 will be found in Ordinance Book No. 10 at page ~~193-195.~~ 160 and 161 and 162

ORDINANCE NO. 1453 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED (REZONING PROPERTY ON FAIRVIEW ROAD)

6. Consideration was given to the second reading of Ordinance No. 1453, an Ordinance amending Ordinance No. 322, known as "An Ordinance Providing for the Zoning of the City of Asheville," as amended (Rezoning Property on Fairview Road).

Vice-Mayor Bratton said this ordinance was previously read on first reading and would not be re-read in its entirety unless there was a specific request to do so.

On a roll call vote of 6-0, Ordinance No. 1453 passed on second reading.

ORDINANCE NO. 1454 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF OR THE CITY OF ASHEVILLE," AS AMENDED (MONTFORD AREA - ADDITIONAL LOTS

7. Consideration was given to the second reading of Ordinance No. 1454, an ordinance amending Ordinance No. 322, known as "An Ordinance Providing for the Zoning of the City of Asheville," as amended (Montford Avenue - Additional Lots).

Mayor McDevitt said copies of the resolution were previously furnished to members of Council, and it would not be read in its entirety unless there was a specific request to do so.

Upon motion of Vice-Mayor Bratton, seconded by Councilman Myers, Resolution No. 84-120 was unanimously adopted.

Complete text of Resolution No. 84-120 will be found in Resolution Book No. 14 at page 383.

RESOLUTION NO. 84-121 - RESOLUTION ACCEPTING CERTAIN STATE SYSTEM STREETS AS CITY SYSTEM STREETS IN THE PATTON AVENUE ANNEXATION AREA

12. Consideration was given to a resolution accepting certain State System streets as City System streets in the Patton Avenue annexation area.

Mayor McDevitt said members of Council were previously furnished copies of the resolution, and it would not be read in its entirety unless there was a specific request to do so.

Upon motion of Councilman Boland, seconded by Councilman Price, Resolution No. 84-121 was unanimously adopted.

Complete text of Resolution No. 84-121 will be found in Resolution Book No. 14 at page 384.

RESOLUTION NO. 84-122 - RESOLUTION AUTHORIZING CERTAIN OFFICIAL ACTION RELATIVE TO THE BELE CHERE FESTIVAL

Consideration was given to a resolution authorizing certain official action relative to the Bele Chere festival for July 27, 28, and 29, 1984.

Verl Emrick, Director of Planning, read the resolution stating that this would close several streets in the downtown area for the Bele Chere festival and also provide for parking during the festival.

Upon motion of Councilman Price, seconded by Councilman Boland, Resolution No. 84-122 was unanimously adopted.

Complete text of Resolution No. 84-122 will be found in Resolution Book No. 14 at page 385, 386, and 387.

ORDINANCE NO. 1457 - BUDGET ORDINANCE AMENDMENT TO SET UP BUDGET FOR BELE CHERE

Consideration was given to a budget ordinance amendment to set up a budget for the Bele Chere in the Planning Department budget.

Mayor McDevitt presented the Budget Ordinance Amendment in the amount of $49,350 to set up a budget for the Bele Chere in the Planning Department budget.

Vice-Mayor Bratton moved for the adoption of Ordinance No. 1457. This motion was seconded by Councilman Myers.

On a roll call vote of 6-0, Ordinance No. 1457 passed on first and final reading.

The above bidders have proposed to construct a masonry office building between 6,400 and 6,500 sq. ft. The architect-designed building will be brick contemporary with a truss roof. The tenants will be Waddell, Sluder, Adams, and Company and Maryland Casualty Company. The current number of employees for both concerns is twenty-four. Adequate parking will be made available.

Note: This matter was discussed on July 17, 1984; however, action was postponed until July 24, 1984, to obtain additional information.

The City Manager presented a report from Bob McDonald, Traffic Engineer, indicating that the widening for a left turn lane on South French Broad at Hilliard Avenue could be sufficiently accomplished by widening on the west side (Aston Park side) of South French Broad. He said this additional work, in his opinion, can be done within existing right-of-way without any major disruptions to adjoining properties.

Councilman Price moved to approve the sale of disposal parcel #4 as recommended by the Housing Authority. This motion was seconded by Councilman Boland and carried unanimously.

ORDINANCE NO. 1456 - BUDGET ORDINANCE AMENDMENT TO INCREASE APPROPRIATION TO CHAMBER OF COMMERCE AND THE COMMUNITY RELATIONS COUNCIL

10. Consideration was given to a budget ordinance amendment to increase appropriation to the Chamber of Commerce and the Community Relations Council.

Mayor McDevitt returned to the meeting.

Mayor McDevitt presented the budget ordinance amendment to increase appropriations to the Chamber of Commerce from $32,371 to $33,742 and the Community Relations Council from $43,515 to $50,387.

Councilman Price moved for the adoption of Ordinance No. 1456. This motion was seconded by Councilman Bissette.

On a roll call vote of 6-0, Ordinance No. 1456 passed on first and final reading.

Complete text of Ordinance No. 1456 will be found in Ordinance Book No. 10 at page ~~200~~ 167 ½.

RESOLUTION NO. 84-120 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT WITH THE ASHEVILLE AREA CHAMBER OF COMMERCE FOR SERVICES PROMOTING GENERAL INDUSTRIAL GROWTH AND GROWTH OF THE TRAVEL AND TOURISM INDUSTRY

11. Consideration was given to a resolution authorizing the Mayor to execute an agreement with the Asheville Area Chamber of Commerce for services promoting general industrial growth and growth of the travel and tourism industry.

LAWSUIT - DAVID AND LINDA SPRINKLE - DAMAGE TO PROPERTY

The City Manager said the City was served with a summons in connection with a small claims action involving David and Linda Sprinkle relative to damage to property from alleged improper water drainage system.

Mayor McDevitt referred the lawsuit to the Corporation Counsel for investigation and recommendation.

RESOLUTION NO. 84-124 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACTUAL AGREEMENT WITH GROVER C. MATHEWS FOR SETTLEMENT OF A WORKERS' COMPENSATION DISABILITY CLAIM

Consideration was given to a resolution authorizing the City Manager to enter into a contractual agreement with Grover C. Mathews for settlement of a Workers' Compensation disability claim.

The Corporation Counsel presented the resolution.

Upon motion of Councilman Boland, seconded by Vice-Mayor Bratton, Resolution No. 84-124 was unanimously adopted.

Complete text of Resolution No. 84-124 will be found in Resolution Book No. 14 at page 389.

RESOLUTION NO. 84-125 - RESOLUTION AUTHORIZING THE MAYOR, ON BEHALF OF THE CITY OF ASHEVILLE, TO EXECUTE AN AMENDMENT TO AN AGREEMENT DATED DECEMBER 20, 1983, BY AND BETWEEN THE CITY OF ASHEVILLE AND THE HOUSING AUTHORITY OF THE CITY OF ASHEVILLE

Consideration was given to a resolution authorizing the Mayor, on behalf of the City of Asheville, to execute an amendment to an agreement dated December 20, 1983, by and between the City of Asheville and the Housing Authority of the City of Asheville.

The Corporation Counsel presented the resolution stating that since the Pack Plaza Redevelopment Plan has been approved, this resolution will authorize the Housing Authority to proceed with the implementation of a redevelopment plan for the Pack Plaza Redevelopment Project.

Upon motion of Councilman Price, seconded by Councilman Boland, Resolution No. 84-125 was unanimously adopted.

Complete text of Resolution No. 84-125 will be found in Resolution Book No. 14 at page 390.+391

Complete text of Ordinance No. 1457 will be found in Ordinance Book No. 10 at page ~~201~~. 168

PROCLAMATION - "BELE CHERE" - JULY 27, 28, & 29, 1984

Mayor McDevitt proclaimed July 27, 28, & 29, 1984, as the dates for the "Bele Chere Festival" for the City of Asheville.

ORDINANCE NO. 1458 - BUDGET ORDINANCE AMENDMENT TO PROVIDE FUNDING FOR CONSULTANT SERVICES - CITY'S MEDICAL INSURANCE COVERAGE

Consideration was given to a Budget Ordinance Amendment to provide funding for consultant services to assist in evaluating the City's medical insurance coverage and the cost thereof.

Mayor McDevitt presented the budget ordinance amendment indicating that the contract for the consultant services would be in an amount not to exceed $5,000.

Councilman Bissette moved for the adoption of Ordinance No. 1458. This motion was seconded by Councilman Price.

On a roll call vote of 6-0, Ordinance No. 1458 passed on first and final reading.

Complete text of Ordinance No. 1458 will be found in Ordinance Book No. 10 at page ~~202~~. 169

RESOLUTION NO. 84-123 - RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACTUAL AGREEMENT WITH HUTCHISON & ASSOCIATES, INC.

Consideration was given to a resolution authorizing the Mayor to enter into a contractual agreement with Hutchison & Associates, Inc.

Mayor McDevitt presented the resolution, stating that the cost for said services from Hutchison & Associates, Inc. shall not exceed the maximum amount of $5,000.

Upon motion of Councilman Price, seconded by Vice-Mayor Bratton, Resolution No. 84-123 was unanimously adopted.

Complete text of Resolution No. 84-123 will be found in Resolution Book No. 14 at page 388.

CLAIMS - ROY EDGERTON (WATER) - DAVID SMITH (WATER)

The City Manager presented claims received from Roy Edgerton and David Smith.

Mayor McDevitt referred the claims to the Corporation Counsel for investigation and recommendation.

Tuesday - July 31, 1984 - 4:00 p.m.

Regular Meeting

Present: Vice-Mayor Wilhelmina Bratton, Presiding; Councilman Mary Lloyd Frank; Norma T. Price; Walter R. Boland; and Louis Bissette; Corporation Counsel William F. Slawter; Acting City Manager William F. Wolcott, Jr.; Deputy City Clerk Carol Hensley.

Absent: Mayor Larry McDevitt (Vacation)
Councilman Gordon Myers

INVOCATION

The invocation was given by Vice-Mayor Wilhelmina Bratton.

APPROVAL OF THE MINUTES - JULY 24, 1984

1. Consideration was given to the approval of the minutes of the July 24, 1984 meeting.

Councilman Boland moved to approve the minutes of the July 24, 1984, subject to minor modifications which would not change the substance of the minutes. This motion was seconded by Councilman Price and carried unanimously.

PUBLIC HEARING - AMENDMENT TO ZONING ORDINANCE - ARTICLE 13, CHAPTER 30 - MONTFORD HISTORIC DISTRICT - CERTIFICATE OF APPROPRIATENESS

ORDINANCE NO. 1459 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE", AS AMENDED (MONTFORD HISTORIC DISTRICT - CERTIFICATE OF APPROPRIATENESS)

2. A public hearing was held relative to the adoption of an ordinance amending the Zoning Ordinance concerning Article 13, Chapter 30 of the Code of Ordinances of the City of Asheville (Montford Historic District).

Vice-Mayor Bratton said this ordinance will clarify the procedures in obtaining a Certificate of Appropriateness for properties located in the Montford Historic District.

Vice-Mayor Bratton opened the public hearing at 4:04 p.m.

The City Manager presented the notice to the public setting the time and date for the public hearing, and the affidavit of publication.

Mr. Tom Stietler, President of the Historic Resources Commission said these amendments will provide for a more smooth and efficient operation for issuing certificate of appropriatenesses for properties located in the Montford Historic District. He said he felt minor changes to the ordinance would be made prior to the second reading of the ordinance.

Vice-Mayor Bratton closed the public hearing at 4:06 p.m.

ADJOURN TO EXECUTIVE SESSION

Upon motion of Councilman Bissette, seconded by Councilman Myers, the Council adjourned to meet in executive session relative to a real estate matter.

The meeting adjourned at 7:45 p.m.

Mayor

City Clerk

Councilman Frank moved for the adoption of Ordinance No. 1461. This motion was seconded by Councilman Boland.

On a roll call vote of 5-0, Ordinance No. 1461 passed on first and final reading.

Complete text of Ordinance No. 1461 will be found in Ordinance Book No. 10 at Page ~~206.~~ 174

ORDINANCE NO. 1453 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED (REZONING PROPERTY ON FAIRVIEW ROAD)

5. Consideration was given to the third reading of Ordinance No. 1453, an ordinance amending Ordinance No. 322, known as "an ordinance providing for the zoning of the City of Asheville," as amended, property located at 896 Fairview Road.

Vice Mayor Bratton said this ordinance was previously read on first and second reading, and would not be reread in its entirety unless there was a specific request to do so.

On a roll call vote of 5-0, Ordinance No. 1453 passed on third and final reading.

Complete text of Ordinance No. 1453 will be found in Ordinance Book No. 10 at Page ~~196.~~ 163

ORDINANCE NO. 1454 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED (MONTFORD AREA - ADDITIONAL LOTS)

6. Consideration was given to the third reading of Ordinance No. 1454, an ordinance amending Ordinance No. 322, known as "an ordinance providing for the zoning of the City of Asheville," as amended, property located in the Montford Area.

Vice-Mayor Bratton said this ordinance was previously read on first and second reading, and would not be reread in its entirety unless there was a specific request to do so.

On a roll call vote of 5-0, Ordinance No. 1454 passed on third and final reading.

Complete text of Ordinance No. 1454 will be found in Ordinance Book No. 10 at Page ~~197.~~ 164

RESOLUTION NO. 84-126 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A LEASE AGREEMENT WITH THE ASHEVILLE/BUNCOMBE EMPLOYEES CREDIT UNION FOR SPACE IN THE CITY BUILDING

7. Consideration was given to a resolution authorizing the City Manager to enter into a lease agreement with the Asheville/Buncombe Employees Credit Union for space in the City Building.

The City Manager said members of Council were previously furnished copies of the ordinance, and it would not be read in its entirety unless there was a specific request to do so.

Councilman Boland moved for the adoption of Ordinance No. 1459. This motion was seconded by Councilman Frank.

On a roll call vote of 5-0, Ordinance No. 1459 passed on first reading.

ORDINANCE NO. 1460 - BUDGET ORDINANCE AMENDMENT TO REPROGRAM UNSPENT COMMUNITY DEVELOPMENT FUNDS TO THE DOWNTOWN REVITALIZATION FUND

3. Consideration was given to a budget ordinance amendment to reprogram unspent Community Development funds to the Downtown Revitalization Fund.

Vice-Mayor Bratton said this budget amendment will reprogram unspent Community Development Funds to the Downtown Revitalization Fund. This action appropriates $687,122 in existing uncommitted Community Development Funds to the Downtown Revitalization Project. A separate capital project fund will be established to account for all City, County, and Grant revenues upon final approval of each downtown project.

The City Manager said members of Council were previously furnished copies of the Ordinance, and it would not be read in its entirety unless there was a specific request to do so.

Councilman Frank moved for the adoption of Ordinance No. 1460. This motion was seconded by Councilman Bissette.

On a roll call of 5-0, Ordinance No. 1460 passed on first and final reading.

Complete text of Ordinance No. 1460 will be found in Ordinance Book No. 10 at Page ~~205.~~ 173

ORDINANCE NO. 1461 - BUDGET ORDINANCE AMENDMENT APPROPRIATING FUNDS TO THE PUBLIC WORKS, STREET DIVISION - CAPITAL OUTLAY LINE ITEM, FROM THE GENERAL REVENUE SHARING FUND.

4. Consideration was given to a budget ordinance amendment appropriating funds to the Public Works, Street Division - Capital Outlay line item, from the General Revenue Sharing Fund.

Vice-Mayor Bratton said this budget amendment will carry forward an appropriation in the amount of $53,600 from Fiscal 1983/84 to Fiscal 1984/85 for tractor/mower and loader/backhoe purchase for the Street Division. The tractor/mower and loader/backhoe were budgeted in the Fiscal 1983/84 General Revenue Sharing Budget. This action will carry forward the appropriation to Fiscal 1984/85 in the amount of $53,600.

The City Manager said members of Council were previously furnished copies of the ordinance, and it would not be read in its entirety unless there was a specific request to do so.

Clark Brown, Director of Public Works, said sealed bids were received to furnish a trailer-mounted asphalt recycling plant. He said two bids were received as follows:

VENDOR	AMOUNT
Contractors Service & Rental	$12,911.00
Brown Equipment Company	29,827.00

Mr. Brown said these bids were reviewed for technical compliance to the specifications. He said he recommends rejection of the low bid on the basis that it does not comply with specifications and acceptance of the second low bid from Brown Equipment Company, Inc., in the amount of $29,827.00 for a Porta-Patcher Model 9289ESC unit. He said the specification items that were not met by Contractors Service & Rental include: #1 Rate of production; #5 - emission recirculating system; #7 - self contained equipment; #8 - powered drum slope adjustment and chain flight feeder; #9 - hydraulic powered equipment. He said in addition, the Porta-Patcher furnished by Brown Equipment Company was the only one capable of both portable and stationary application, which he felt was important to the needs of the City.

Mr. Ron Coleman, Contractors Services & Rental, spoke to members of Council relative to Mr. Brown's opinion that their equipment did not meet specifications. He said he did not agree with Mr. Brown on Item #1 and Item #5. He said the bid specifications were slanted toward Brown Equipment Company. He said no other company could bid on such specifications. He offered to provide the City with a free demonstration of his equipment, side by side, with the Brown Equipment Company machine. He said he felt that Council could make a more thorough determination on the bid proposals after such a demonstration. He said his company is local and furnish local service.

In response to Mr. Coleman, Mr. Brown said the Public Works Department had problems with establishing the specifications, since they did not have experience with recycling machines. He said the technology in this field is developing fast.

After further discussion, Councilman Boland requested that the Public Works Department, in the future, monitor the machinery closely to make sure that this equipment is more efficient. He said they should also use flexibility in exploring Mr. Coleman's equipment.

Councilman Price moved to accept the recommendation of the Public Works Director, and award the bid to the second low bidder from Brown Equipment Company, Inc. in the amount of $29,827.00. This motion was seconded by Councilman Frank and carried unanimously.

RESIDENTS OF DUNWELL AVENUE AND TANGLEWOOD DRIVE - DOGS

Mr. Henry Aldsworth of 129 Dunwell Avenue, spoke to members of Council relative to a problem the residents are having with pit bull dogs located at 18 Tanglewood Drive. He said the residents of 18 Tanglewood Drive are in violation of City ordinances in that there were more than 6 dogs on the premises. He also expressed concerns about the dogs barking, the odor, and flies caused by the housing of this many dogs on a small lot. He said if

Vice-Mayor Bratton said the Credit Union currently occupies space (648 sq. ft.) on the 4th floor of the City Hall Building. This resolution will officially lease the space to the Credit Union at a rental rate of $1.00 per year.

Upon motion of Councilman Frank, seconded by Councilman Boland, Resolution No. 84-126 was unanimously adopted.

Complete text of Resolution No. 84-126 will be found in Resolution Book No. 14 at Page ~~391~~ 392.

BIDS - (1) TRACTOR WITH HYDRAULIC ARM MOWER SYSTEM AND (1) TRACTOR LOADER WITH BACKHOE FOR THE STREET DIVISION

8. Consideration was given to bids received for (1) tractor with hydraulic arm mower system and (1) tractor loader with backhoe for the Street Division.

Clark Brown, Director of Public Works, said sealed bids were received to furnish 2 tractors for the Street Division. He said four bids were received as follows:

Item 1: (1) tractor with hydraulic arm mower and;
Item 2: (1) tractor loader with backhoe for Street Division

BIDDER	AMOUNT
Bruce Equipment Company	Item 1, No Bid - Item 2, $26,214
Farm Equipment Company	Item 1, $29,666 - Item 2, $27,475
Farmers International	Item 1, $31,342 - Item 2, No Bid
N. C. Equipment Company	Item 1, $27,915 - Item 2, $25,685

Mr. Brown said these bids were reviewed for technical compliance to the specifications and recommended the acceptance of the low bid for both Item 1 and Item 2; awarding the bid to North Carolina Equipment Company, Asheville, North Carolina: Item 1: 1984 Tractor 6610 tractor with mower trim - $27,915.00 and Item 2: 1984 JCB Space 3C - 1400 loader-backhoe - $25,685.00, for a total award in the amount of $53,600.00. He said funding for this purchase was originally provided for in the Revenue Sharing Fund, Street Division Capital Equipment appropriations for Fiscal Year 1984.

Councilman Bissette moved to approve the recommendation of the Public Works Director, awarding the bid to North Carolina Equipment Company in the amount of $53,600.00. This motion was seconded by Councilman Price and carried unanimously.

BIDS - TRAILER-MOUNTED HEATING AND REMIXING PLANT FOR THE RECYCLING OF SALVAGED ASPHALT-PAVING MATERIALS

9. Consideration was given to bids received for a trailer-mounted heating and remixing plant for the recycling of salvaged asphalt-paving materials.

Upon motion of Councilman Frank, seconded by Councilman Bissette, Resolution No. 84-128 was unanimously adopted.

Complete text of Resolution No. 84-128 will be found in Resolution Book No. 14 at Page 393. 394.

PROCLAMATION - "ANNUAL SALE OF BUDDY POPPIES""

Vice-Mayor Bratton read a proclamation relative to the annual sale of Buddy Poppie by the Veterans of Foreign Wars.

CLAIMS - JOAN ALBERTSON (WATER) - FLOYD BANKS (WATER) - EDWARD ANDERSON (STREETS) - ERNIE ANDERSON (POLICE) - LOCKIE WORLEY (STREETS) - MARY SLOAN (PARKS & RECREATION) - JOYCE McELRATH (WATER) - SUSAN TUITELE (WATER)

The City Manager presented claims received from Joan Alberton, Floyd Banks, Edward Anderson, Ernie Anderson, Lockie Worley, Mary Sloan, Joyce McElrath and Susan Tuitele.

Vice-Mayor Wilhelmina Bratton referred the claims to the Corporation Counsel for investigation and recommendation.

RESOLUTION NO. 84-129 - RESOLUTION AUTHORIZING SETTLEMENT OF A CLAIM AGAINST APPALACHIAN HALL

Consideration was given to a resolution authorizing settlement of a claim against Appalachian Hall.

Corporation Counsel Slawter said members of Council were previously furnished copies of the resolution and it would not be read in its entirety unless there was a specific request to do so. He said this claim was in the sum of $4,000.00.

Upon motion of Councilman Price, seconded by Councilman Frank, Resolution No. 84-129 was unanimously adopted.

Complete text of Resolution No. 84-129 will be found in Resolution Book No. 14 at Page 394. 395.

DOWNTOWN REDEVELOPMENT PROJECTS - MAYOR McDEVITT

Councilman Bissette said Mayor McDevitt had just telephoned, and said he was in concurrence with the resolutions relative to the Downtown Redevelopment Projects.

ADJOURNMENT

Upon motion of Councilman Price, seconded by Councilman Frank, the meeting adjourned at 5:45 p.m.

Lou McDevitt
MAYOR

William F. Malcatton
CITY CLERK

the present City Ordinances does not provide for elimination of such situations, then an ordinance should be adopted to eliminate such problems. He said the dogs are vicious and felt the residents at 18 Tanglewood Drive were running a business. He said this residence should be inspected periodically by the City and the Health Department.

Corporation Counsel Slawter said the City had previously investigated this complaint and under the existing ordinance, unless the residents at 18 Tanglewood Drive house more than 6 dogs, there was no violation of the present City Ordinance under the Revenue Ordinance which specifically regulates kennels..

Several of the residents in the area spoke relative to this situation.

Councilman Price and Councilman Boland informed the residents that the Council is now considering a new animal control ordinance which may help to alleviate this situation.

Councilman Bissette requested that in the mean time, the Inspections Division continue to look at the situation at 18 Tanglewood Drive.

Upon inquiry of the residents, Corporation Counsel Slawter said if a new ordinance was adopted relative to animal control, the residents at 18 Tanglewood Drive would have to comply with the new ordinance and would not be exempt by a "grandfather clause".

RESOLUTION NO. 84-127 - RESOLUTION AUTHORIZING EXECUTION OF A REVISED MASTER AGREEMENT BY AND AMONG SCHNEIDER NINE, INC., CITY OF ASHEVILLE AND THE COUNTY OF BUNCOMBE

Consideration was given to a resolution authorizing execution of a revised master agreement by and among Schneider Nine, Inc., the City of Asheville and the County of Buncombe.

Vice-Mayor Bratton said members of Council were previously furnished copies of the resolution, and discussed during the Pre-Council work session, and it would not be read in its entirety unless there was a specific request to do so.

Upon motion of Councilman Boland, seconded by Councilman Price, Resolution No. 84-127 was unanimously adopted.

Complete text of Resolution No. 84-127 will be found in Resolution Book No. 14 at Page 392. 393.

RESOLUTION NO. 84-128 - RESOLUTION AUTHORIZING THE SUBMISSION OF A REVISED URBAN DEVELOPMENT ACTION GRANT (UDAG) APPLICATION FOR THE WALL STREET PROJECT

Consideration was given to a resolution authorizing the submission of a revised Urban Development Action Grant (UDAG) application for the Wall Street Project.

Vice-Mayor Bratton said this resolution was previously furnished to members of Council, and discussed during the Pre-Council meeting, and would not be read in its entirety unless there was a specific request to do so.

Mayor McDevitt recognized Verl Emrick and Patty Tallerday, Coordinators of this year's festival, and the staff of the City in attendance at the meeting, including the Streets and Sanitation employees, who helped to make the 1984 Bele Chere Festival a memorable event.

Complete text of Resolution No. 84-131 will be found in Resolution Book No. 14 at page ~~396.~~ 397.

ORDINANCE NO. 1462 - AN ORDINANCE AMENDING CHAPTER 13 OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE TO PROVIDE FOR ENFORCEMENT BY THE BUNCOMBE COUNTY ENVIRONMENTAL INSPECTOR

4. Consideration was given to an ordinance amending Chapter 13 of the Code of Ordinances of the City of Asheville to provide for enforcement by the Buncombe County Environmental Inspector.

Mayor McDevitt said the County of Buncombe has declared its intention to provide litter enforcement within the City of Asheville through the Office of the Buncombe County Environmental Inspector. Therefore, the most efficient enforcement of the provisions of Chapter 13 can be realized by a transfer of the responsibility for enforcement of Chapter 13 from the Division of Inspections to the Buncombe County Environmental Inspector.

Mayor McDevitt recognized Mr. Fred Remington, Buncombe County Environmental Inspector, who will be enforcing the City of Asheville Sanitation Code.

Mr. Peter Winslow of Quality Forward spoke in support of the Ordinance stating that he was very pleased and enthusiastic about the enforcement of the City of Asheville Sanitation Code.

Councilman Frank moved for the adoption of Ordinance No. 1462. This motion was seconded by Councilman Bissette.

On a roll call vote of 6-0, Ordinance No. 1462 passed on first reading.

Councilman Price moved to suspend the rules and proceed to the second reading of Ordinance No. 1462. This motion was seconded by Councilman Myers and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1462 passed on second reading.

Councilman Price moved to suspend the rules and proceed to the third reading of Ordinance No. 1462. This motion was seconded by Councilman Frank and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1462 passed on third and final reading.

Complete text of Ordinance No. 1462 will be found in Ordinance Book No. 10 at page ~~207~~ and ~~208.~~ 175 and 176 92

Tuesday - August 7, 1984 - 4:00 p.m.

Regular Meeting

Present: Mayor Larry McDevitt, Presiding; Vice-Mayor Wilhelmina Bratton; Councilmen Mary Lloyd Frank, Norma T. Price, Gordon Myers, and Louis Bissette; Corporation Counsel William F. Slawter; Acting City Manager William F. Wolcott, Jr.; Deputy City Clerk Carol Hensley.

Absent: Councilman Walter Boland

INVOCATION

The invocation was given by Mayor Larry McDevitt.

APPROVAL OF THE MINUTES - JULY 31, 1984

1. Consideration was given to the approval of the minutes of the July 31, 1984 meeting.

Mayor McDevitt noted a change on page 140 of the minutes, changing the word "examine" to "monitor."

Upon motion of Councilman Bissette, seconded by Councilman Price, the minutes of the June 31, 1984, meeting were approved with the noted change.

RESOLUTION NO. 84-130 - RESOLUTION OF APPRECIATION TO MR. J. D. JACKSON AS 1984 BELE CHERE FESTIVAL CHAIRMAN

2. Consideration was given to a resolution of appreciation to Mr. J. D. Jackson as 1984 Bele Chere Festival Chairman.

Mayor McDevitt read the resolution.

Upon motion of Councilman Bissette, seconded by Councilman Price, Resolution No. 84-130 was unanimously adopted.

Mayor McDevitt presented the resolution to Mr. J. D. Jackson.

Complete text of Resolution No. 84-130 will be found in Resolution Book No. 14 at page ~~395~~ 396.

RESOLUTION NO. 84-131 - RESOLUTION OF APPRECIATION TO THE PARTICIPANTS OF BELE CHERE 1984

3. Consideration was given to a resolution of appreciation to the participants of Bele Chere 1984.

Mayor McDevitt read the resolution.

Upon motion of Councilman Price, seconded by Councilman Frank, Resolution No. 84-131 was unanimously adopted.

ORDINANCE NO. 1459 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED (MONTFORD HISTORIC DISTRICT - CERTIFICATE OF APPROPRIATENESS)

7. Consideration was given to the second reading of Ordinance No. 1459, an ordinance amending Ordinance No. 322, known as "An Ordinance Providing for the Zoning of the City of Asheville," as amended (Montford Historic District - Certificate of Appropriateness).

Corporation Counsel Slawter presented several proposed amendments to Ordinance No. 1459.

Councilman Price moved to amend Ordinance No. 1459 as presented by the Corporation Counsel. This motion was seconded by Councilman Bissette and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1459, as amended, passed on second reading.

RESOLUTION NO. 84-133 - RESOLUTION AUTHORIZING THE MAYOR TO SIGN ON BEHALF OF THE CITY OF ASHEVILLE A CONTRACT WITH HUNTLEY CONSTRUCTION COMPANY FOR THE PROJECT KNOWN AS TRINITY CHAPEL ROAD IMPROVEMENT PROJECT

8. Consideration was given to a resolution authorizing the Mayor to sign on behalf of the City of Asheville a contract with Huntley Construction Company for the project known as Trinity Chapel Road Improvement Project.

Mayor McDevitt said three (3) bids were received on the Trinity Chapel Road Improvement Project. Huntley Construction Company of Asheville is the apparent low bidder for this contract, in the amount of $218,830.25. It has been recommended that the City accept Huntley Construction Company as the low bidder and authorize the Mayor to enter into a contract with them for this work. Sufficient funds are budgeted for this project in the Street Paving Program and the Water and Sewer Replacement Projects.

Mayor McDevitt said copies of the resolution were previously distributed to members of Council, and the resolution would not be read in its entirety unless there was a specific request to do so.

The bid tabulation is as follows:

Hobson Construction Company	$233,447.00
Huntley Construction Company	218,830.25
Tennoca Construction Company	225,515.50

Upon motion of Councilman Price, seconded by Councilman Frank, Resolution No. 84-133 was unanimously adopted.

Complete text of Resolution No. 84-133 will be found in Resolution Book No. 14 at page ~~392~~ 400.

RESOLUTION NO. 84-132 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT WITH THE COUNTY OF BUNCOMBE CONCERNING ENFORCEMENT OF LITTER CONTROL

5. Consideration was given to a resolution authorizing the Mayor to execute an agreement with the County of Buncombe concerning enforcement of litter control.

Mayor McDevitt said the City and County each have separate ordinances concerning restrictions on littering. The City and County agree that the problem of litter is of a county-wide nature and can best be restricted by placing responsibility for the enforcement of both ordinances with a single agency. The Office of the Buncombe County Environmental Inspector is funded through the assessment of landfill user fees for the sanitary landfill operated by the County, which fees are paid by city residents as well as by persons living in the unincorporated areas of the county. The placement of county-wide enforcement responsibilities with the Office of the Buncombe County Environmental Inspector would enable the cost of litter control to be spread county-wide. The County has agreed to enforce the City's Sanitation Code through the Office of the Buncombe County Environmental Inspector. This resolution will authorize an agreement with the County providing for the Buncombe County Environmental Inspector to be responsible for enforcement of the Sanitation Code of the City.

Mayor McDevitt said copies of the resolution were previously distributed to members of Council, and it would not be read in its entirety unless there was a specific request to do so.

Upon motion of Councilman Price, seconded by Councilman Frank, Resolution No. 84-132 was unanimously adopted.

Complete text of Resolution No. 84-132 will be found in Resolution Book No. 14 at page ~~397~~ and ~~398~~. 398 + 399.

ORDINANCE NO. 1463 - BUDGET ORDINANCE AMENDMENT TO APPROPRIATE FUNDS INTO THE STATE EMPLOYEE RETIREMENT SYSTEM (HARRY ADAMS)

6. Consideration was given to a Budget Ordinance Amendment to appropriate funds into the State Employee Retirement System (Harry Adams).

Mayor McDevitt said this budget ordinance amendment will appropriate funds not otherwise budgeted to pay $3,795 into the State Employee Retirement System as provided in an agreement with Harry Adams, former employee. This settlement has been approved by City Council in the amount of $3,794.83; however, no funds are appropriated in the Fiscal 1984/85 Budget. This action provides for said appropriation.

Councilman Frank moved for the adoption of Ordinance No. 1463. This motion was seconded by Councilman Myers.

On a roll call vote of 6-0, Ordinance No. 1463 passed on first and final reading.

Complete text of Ordinance No. 1463 will be found in Ordinance Book No. 10 at page ~~209~~. 197 R

Tuesday - August 14, 1984 - 4:00 p.m.

Regular Meeting

Present: Mayor Larry McDevitt, Presiding; Vice-Mayor Wilhelmina Bratton; Councilman Mary Lloyd Frank, Gordon Myers, Walter R. Boland, and Louis Bissette; Acting Corporation Counsel Patsy Brison; Acting City Manager William F. Wolcott, Jr.; Deputy City Clerk Carol Hensley.

Absent: Corporation Counsel William F. Slawter and Councilman Norma T. Price.

INVOCATION

The invocation was given by Councilman Gordon Myers.

APPROVAL OF THE MINUTES

1. Approval of the minutes of August 7, 1984 meeting.

Upon motion of Councilman Frank, seconded by Councilman Myers, the minutes of the August 7, 1984 meeting were unanimously approved as submitted.

Councilman Frank moved that, in the future, the Mayor be authorized to announce the approval of the minutes, subject to any objection or suggestions. This motion was seconded by Councilman Myers, and carried unanimously.

ORDINANCE NO. 1442 - AN ORDINANCE ESTABLISHING A NEW CITY OF ASHEVILLE EROSION CONTROL ORDINANCE

2. Consideration was given to the second reading of Ordinance No. 1442, an ordinance establishing a new City of Asheville Erosion Control Ordinance.

Councilman Boland moved that the second reading of Ordinance No. 1442 be tabled until further notice. This motion was seconded by Councilman Bissette and carried unanimously.

Mayor McDevitt noted that a work session has been scheduled for August 28, 1984 to discuss the revised Erosion Control Ordinance. He said the ordinance should be adopted in its final form during the month of September, 1984.

ORDINANCE NO. 1459 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED (MONTFORD HISTORIC DISTRICT - CERTIFICATE OF APPROPRIATENESS)

3. Consideration was given to the third reading of Ordinance No. 1459, an ordinance amending Ordinance No. 322, known as "An ordinance providing for the zoning of the City of Asheville," as amended. (Montford Historic District - Certificate of Appropriateness.)

Mayor McDevitt said this ordinance was previously read on first and second reading and would not be reread in its entirety unless there was a specific request to do so.

CLAIMS - MARIE HEMPHILL (WATER) - BARBARA HARLOW (SEWER) - WILLIAM STEVENS (PARKS & RECREATION) - CLYDIE FREDRICK (PARKS & RECREATION)

The City Manager presented claims received from Marie Hemphill, Barbara Harlow, William Stevens, and Clydie Fredrick.

Mayor McDevitt referred the claims to the Corporation Counsel for investigation and recommendation.

RALPH BISHOP - RELATIVE TO DOWNTOWN PROJECTS

Ralph Bishop spoke to members of Council in opposition to the proposed downtown projects. He said he felt it was wrong for the City of Asheville to take other people's property.

EXECUTIVE SESSION

Councilman Myers moved that Council go into Executive Session to discuss a real estate matter. This motion was seconded by Councilman Frank and carried unanimously.

SCHEDULING OF PUBLIC HEARING - WALL STREET APPLICATION

Councilman Price moved to schedule a public hearing for August 21, 1984, relative to the Wall Street UDAG Application. This motion was seconded by Councilman Frank and carried unanimously.

ADJOURN TO MEET AGAIN ON THURSDAY, AUGUST 9, 1984 at 11:30 A.M.

Councilman Price moved to adjourn the meeting to meet again on Thursday, August 9, 1984, at 11:30 a.m. This motion was seconded by Councilman Frank and carried unanimously.

Mayor

City Clerk

Upon motion of Councilman Bissette, seconded by Councilman Frank, Resolution No. 84-135 was unanimously adopted.

Complete text of Resolution No. 84-135 will be found in Resolution Book No. 15 at page 13.

RESOLUTION NO. 84-137 - RESOLUTION ENDORSING THE CONTINUATION OF INTERCITY BUS SERVICE ALONG THE ROUTE BETWEEN ASHEVILLE, NORTH CAROLINA AND CHATTANOOGA, TENNESSEE

6. Consideration was given to a resolution endorsing the continuation of the intercity bus service along the route between Asheville, North Carolina and Chattanooga, Tennessee.

Mayor McDevitt said the Trailways Southeastern Lines, Inc. has petitioned the North Carolina Utilities Commission to discontinue intercity bus service along the route between Asheville, North Carolina and Chattanooga, Tennessee. The Public Transportation Division of the North Carolina Department of Transportation is currently discussing the possibility of continuing the service, utilizing federal funds to subsidize the operating costs. This resolution is to endorse the continuation of the bus service and the action of the Public Transportation Division of the North Carolina Department of Transportation.

Mayor McDevitt said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Bissette, seconded by Councilman Frank, Resolution No. 84-137 was unanimously adopted.

Complete text of Resolution No. 84-137 will be found in Resolution Book No. 15 at page 145.

SCHEDULING PUBLIC HEARING - GROUP DEVELOPMENT - WILLOW CREEK MOBILE HOME PARK - OLD HAYWOOD ROAD

Councilman Frank moved to schedule a public hearing relative to the site plan of the proposed Willow Creek Mobile Home Park to be located off Old Haywood Road for August 28, 1984. This motion was seconded by Councilman Myers and carried unanimously.

SCHEDULING PUBLIC HEARING - GROUP DEVELOPMENT - PARTRIDGE LANE APARTMENTS - WATERS ROAD

Councilman Frank moved to schedule a public hearing relative to the site plan of the proposed Partridge Lane Apartments to be located on Waters Road for August 28, 1984. This motion was seconded by Councilman Myers and carried unanimously.

SCHEDULING PUBLIC HEARING - GROUP DEVELOPMENT - WHISPERING PINES MOBILE HOME PARK - SWEETEN CREEK ROAD

Councilman Frank moved to schedule a public hearing relative to the site plan of the proposed Whispering Pines Mobile Home Park to be located off Sweeten Creek Road for August 28, 1984. This motion was seconded by Councilman Myers and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1459 passed on third reading.

Complete text of Ordinance No. 1459 will be found in Ordinance Book No. 10 at page ~~203 and 204~~: 170, 171 and 172.

RESOLUTION NO. 84-134 - RESOLUTION CALLING FOR A PUBLIC HEARING ON AUGUST 28, 1984, FOR THE ADOPTION OF AN ORDINANCE DIRECTING THE DIRECTOR OF INSPECTIONS TO DEMOLISH AND REMOVE THE APARTMENT HOUSE KNOWN AS 37 EAST CHESTNUT STREET, ASHEVILLE, N.C.

4. Consideration was given to a resolution calling for public hearing on August 28, 1984, for the adoption of an ordinance directing the Director of Inspections to demolish and remove the apartment house known as 37 East Chestnut Street, Asheville, N.C.

Mayor McDevitt said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Frank, seconded by Councilman Myers, Resolution No. 84-134 was unanimously adopted.

Complete text of Resolution No. 84-134 will be found in Resolution Book No. 15 at page 1. and 2.

RESOLUTION NO. 84-135 - RESOLUTION AUTHORIZING THE DIRECTOR OF PARKS, RECREATION, AND PUBLIC FACILITIES DEPARTMENT OT ENTER INTO AN AGREEMENT WITH THE BUNCOMBE COUNTY COUNCIL ON AGING FOR TRANSPORTATION SERVICES FOR THE ELDERLY

5. Consideration was given to a resolution authorizing the Director of Parks, Recreation, and Public Facilities Department to enter into an agreement with the Buncombe County Council on Aging for transportation services for the elderly.

Mayor McDevitt said the City of Asheville is currently engaged in providing transportation services to elderly residents to William C. Reid Memorial Recreation Center and to the Senior Opportunity Center for purposes of a hot meal and recreation programs daily. The Buncombe County Council on Aging has provided direct assistance through the Older American Act. These services to the elderly can best be provided by the Buncombe County on Aging and the City of Asheville through a cooperative program. This resolution provides the payment of 65 cents per mile by the Buncombe County Council on Aging to the City of Asheville for transporting senior citizens to and from the Senior Opportunity Center and the Reid Memorial Recreation Center. The amount received from this agreement for fiscal year 1983-84 was $9,945. This partially defrayed the total cost of this transporation service which was $16,202. This total cost figure does not include depreciation on the van, but includes the salary of the van driver and the cost of gasoline, oil, insurance, repairs, etc. to the van. While this agreement will not pay the total cost of operating this service, if we do not have this agreement and if the City continues to provide this service, then the net cost to the City would be approximately $16,000 as compared to the net cost of approximately $6,000 for last year.

Mayor McDevitt said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Mayor McDevitt said members of Council have agreed that all contracts, leases, or agreements are to be signed by the Mayor or City Manager.

RALPH BISHOP - LOTTERY SALES

Ralph Bishop spoke to members of Council relative to lottery sales in the City of Asheville.

PUBLIC AFFAIRS COMMITTEE - REPORT - APPOINTMENTS TO BOARDS AND COMMISSIONS

Mayor McDevitt said the Public Affairs Committee has reviewed and made recommendations for various vacancies on Boards and Commissions. He said Council will be considering appointments to these boards within the next two weeks. He said any member of the public that would like to serve on these boards should make inquiry to the City Manager or the City Council. He said the boards would include the Zoning Board of Adjustments, City of Asheville Board of Alcoholic Control, Asheville Area Civic Center Commission, Western North Carolina Air Pollution Control Board, Asheville Transit Authority, Planning and Zoning Commission, Asheville-Buncombe Insurance Advisory Committee, Tourism Development Authority, Recreation Board, Housing Authority, Asheville Tree Commission, and the Asheville-Buncombe Historic Resources Commission.

EXECUTIVE SESSION

Vice-Mayor Bratton moved that Council go into Executive Session to discuss a legal and real estate matter. This motion was seconded by Councilman Myers and carried unanimously.

ADJOURNMENT

Councilman Bissette moved to adjourn the meeting. This motion was seconded by Councilman Frank and carried unanimously.

Larry McDevitt
MAYOR

Marcia S. Morrett
CITY CLERK

SCHEDULING PUBLIC HEARING - REZONING PROPERTY ON SWANNANOA RIVER ROAD FOR ROBERT S. PATTERSON

Councilman Frank moved to schedule a public hearing relative to rezoning property located on Swannanoa River Road for Robert S. Patterson for August 28, 1984. This motion was seconded by Councilman Myers and carried unanimously.

Upon inquiry of Councilman Boland, Verl Emrick, Director of Planning, said the Planning staff is currently researching materials relative to alternatives to mobile home parks and expects a report to Council within the next couple of weeks.

RESOLUTION NO. 84-136 - RESOLUTION AUTHORIZING THE CLOSING OF A PORTION OF MARKET STREET AND EAGLE STREET ON SATURDAY, AUGUST 18, 1984, FROM 12:00 NOON UNTIL 10:00 P.M.

Consideration was given to a resolution authorizing the closing of a portion of Market Street and Eagle Street on Saturday, August 18, 1984 from 12:00 noon until 10:00 p.m.

Mayor McDevitt noted that the YMI Cultural Center has requested that Market Street, from the ABC Store to the YMI Cultural Center; and Eagle Street from the YMI Cultural Center to Mount Zion Church be closed on Saturday August 18, 1984 from 12:00 noon until 10:00 p.m. for the purpose of a fund-raising drive for completing the restoration of the YMI Building to be called the "Great Goombay Carribean Festival."

Upon motion of Councilman Boland, seconded by Councilman Frank, Resolution No. 84-136 was unanimously adopted.

Complete text of Resolution No. 84-136 will be found in Resolution Book No. 15 at page 34.

CLAIMS - WINNIE JONES (WATER) - JUDY HENSLEY (METER READER)

The City Manager presented claims received from Winnie Jones and Judy Hensley.

Mayor McDevitt referred the claims to the Corporation Counsel for investigation and recommendation.

EMERGENCY EXPENDITURES AUTHORIZED - CITY HALL REPAIRS

Councilman Frank moved to approve emergency expenditures in the amount of $7,200 for the installation of scuppers and access door from the 8th Floor to the roof deck in the City Hall Building. This motion was seconded by Councilman Bissette and carried unanimously.

Mayor McDevitt said this action was taken due to a recent damage to the City Hall Building by heavy rains.

ANNOUNCEMENT BY VICE-MAYOR BRATTON - CHANGING METHOD FOR ELECTION OF MAYOR

Vice-Mayor Bratton said she intends to introduce a resolution on August 28, 1984 calling for a referendum in November, 1984, relative to changing the method for the election of the Mayor.

Ralph Bishop spoke in opposition to the Wall Street Project, stating that Council should not take peoples' property by eminent domain.

Dr. Irby Oglesby of 48 Battery Park told members of Council that property owners should be notified prior to a public meeting that their building is proposed to be demolished. He said his property is set for demolition in the proposed plan.

Mr. Elwood Miles, owner of the Miles Building, requested a meeting with the developers relative to the extent of his involvement in the project.

Mayor McDevitt suggested that the individuals meet with the developers after the public hearing to discuss their individual concerns.

Mayor McDevitt closed the public hearing at 4:50 p.m.

Mayor McDevitt read the resolution.

Upon motion of Councilman Bissette, seconded by Councilman Boland, Resolution No. 84-138 was unanimously adopted.

Complete text of Resolution No. 84-138 will be found in Resolution Book No. 15 at page 5.6.

Vice-Mayor Bratton took her seat.

RESOLUTION NO. 84-139 - RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACTUAL AGREEMENT WITH THE ASHEVILLE/BUNCOMBE COMMUNITY RELATION COUNCIL

3. Consideration was given to a resolution authorizing the Mayor to enter into a contractual agreement with the Asheville/Buncombe Community Relation Council.

Mayor McDevitt said copies of the resolution were previously distributed to members of Council and that the resolution would not be read in its entirety unless there was a specific request to do so.

Mayor McDevitt said this resolution will authorize the Mayor to enter into an agreement with the Asheville/Buncombe Community Relations Council for the continuation of human rights efforts through the delivery and administration of the services and program outlined in a contractural agreement. The City has allocated in the 1984-85 budget $50,387 for the Asheville/Buncombe Community Relations Council.

Upon motion of Councilman Price, seconded by Councilman Boland, Resolution No. 84-139 was unanimously adopted.

Complete text of Resolution No. 84-139 will be found in Resolution Book No. 15 at page 5.7.

August (cont)

Tuesday - 21, 1984 - 4:00 p.m.

Regular Meeting

Present: Mayor Larry McDevitt, Presiding; Vice-Mayor Wilhelmina Bratton; Councilmen Mary Lloyd Frank, Norma T. Price, Walter R. Boland, and Louis Bissette; Corporation Counsel William F. Slawter; Acting City Manager William F. Wolcott, Jr.; Deputy City Clerk Carol Hensley.

Absent: Councilman Gordon Myers

INVOCATION

The invocation was given by Councilman Mary Lloyd Frank.

APPROVAL OF THE MINUTES

1. Mayor McDevitt announced the approval of the minutes of the August 14, 1984 meeting as submitted.

"PROCLAMATION - USS ASHEVILLE PG-21 MEMORIAL DAY"

Mayor McDevitt recognized Mr. Walter Ashe, who coordinated the USS Asheville Memorial Reunion being held in Asheville this week.

Mayor McDevitt read the proclamation.

Mayor McDevitt presented a copy of the proclamation to Mr. Ashe. The individual reunion members in attendance at the meeting told of their service to the USS Asheville and of their present residence.

PUBLIC HEARING - REVISED WALL STREET AREA PROJECT

RESOLUTION NO. 84-138 - RESOLUTION AUTHORIZING THE SUBMISSION OF AN URBAN DEVELOPMENT ACTION GRANT (UDAG) APPLICATION FOR THE WALL STREET PROJECT IN ITS REVISED FORM

2. A public hearing was held relative to the revised Wall Street Area Project. Mayor McDevitt opened the public hearing at 4:25 p.m.

Verl Emrick, Director of Planning, outlined the details of the revised Wall Street Area Project. He said the total project would be in the amount of $20,677,000. By the use of a map, he showed the properties involved and what the proposed use of each parcel would be.

Barry Olin, property owner and merchant on Wall Street, asked if the proposed parking for the area proved not to be satisfactory, would Council be willing to provide more spaces.

Mayor McDevitt responded that the City of Asheville would monitor the parking situation and if the need arises plans would be revised.

Mr. Olin suggested that Council create a parking commission consisting of business people and members of Council to monitor the parking situation. He said shops presently on Wall Street are moving out in anticipation of the new project.

Councilman Frank moved to approve the subordination agreement as presented by the Corporation Counsel and that the Vice-Mayor be authorized to sign the agreement. This motion was seconded by Councilman Bissette and carried unanimously. Councilman Price did not vote on the issue, as she was excused from the meeting.

RESOLUTION CONCERNING FACADE EASEMENTS ON THE AGENDA FOR AUGUST 28, 1984

Mayor McDevitt said the Council would consider a resolution at the August 28, 1984 meeting relative to facade easements in the South Pack Square Project.

CLAIMS - RIDLEY HUTCHINSON (POLICE) - SIDNEY SCHOCHET (SEWER) - BETTY HALL (POLICE) - GARY RAPSTINE (WATER) - ROBERT BURGIN (PARKING GARAGE) - JERRY HOBBS (STREETS) - ROBERT GENTRY (SEWER)

The City Manager presented claims received from Ridley Hutchinson,, Sidney Schocket, Betty Hall, Gary Rapstine, Robert Burgin, Jerry Hobbs and Robert Gentry.

Mayor McDevitt referred the claims to the Corporation Counsel for investigation and recommendation.

SCHEDULING PUBLIC HEARING - ASHWOOD SUBDIVISION

Councilman Boland moved to schedule a public hearing to consider the approval of a final plat of the Ashwood Subdivision located on School Road in Oakley for September 11, 1984. This motion was seconded by Councilman Frank and carried unanimously.

RESCHEDULING PUBLIC HEARING - REZONING PROPERTY ON SWANNANOA RIVER ROAD

Councilman Frank moved to schedule a public hearing relative to rezoning property located on Swannanoa River Road orginally scheduled for August 28, 1984 for September 11, 1984. This motion was seconded by Councilman Bissette and carried unanimously.

INVITATION TO ATTEND FATERNAL ORDER OF POLICE BARBECUE PICNIC

The City Manager said members of Council have been extended an invitation to attend the Faternal Order of Police barbecue picnic on Labor Day, September 3, 1984, at Lake Julian.

RALPH BISHOP - LOTTERY SALES IN THE CITY OF ASHEVILLE AND FORMER POLICE CHIEF J. C. HALL

Ralph Bishop again spoke to members of Council relative to lottery sales in the City of Asheville and former Police Chief J. C. Hall.

ADJOURN TO EXECUTIVE SESSION

Councilman Frank moved to adjourn to executive session to discuss a real estate and legal matter. This motion was seconded by Councilman Bissette and carried unanimously.

Tony McDevitt
MAYOR

William F. Hallett
CITY CLERK

RESOLUTION NO. 84-140 - RESOLUTION APPROVING THE RESOLUTION OF INTENT OF THE HOUSING AUTHORITY OF THE CITY OF ASHEVILLE TO ISSUE URBAN REDEVELOPMENT BONDS IN AN AMOUNT NOT TO EXCEED $10,000,000 AND REQUESTING THE HOUSING AUTHORITY TO ADOPT THE RESOLUTION OF INTENT

Consideration was given to a resolution approving the Resolution of Intent of the Housing Authority of the City of Asheville to issue Urban Redevelopment Bonds in the amount not to exceed $10,000,000 and requesting the Housing Authority to adopt the Resolution of Intent.

Mayor McDevitt read the resolution.

Upon motion of Councilman Price, seconded by Councilman Boland, Resolution No. 84-140 was unanimously adopted.

Complete text of Resolution No. 84-140 will be found in Resolution Book No. 15 at page 7.8.9

RESOLUTION NO. 84-141 - RESOLUTION AUTHORIZING THE MAYOR TO SIGN ON BEHALF OF THE CITY OF ASHEVILLE A CONTRACT WITH PAVING ENTERPRISES, INC. FOR THE PROJECT KNOWN AS WINDSWEPT AREA PAVING PROJECT

Consideration was given to a resolution authorizing the Mayor to sign on behalf of the City of Asheville a contract with Paving Enterprises, Inc. for the project known as Windswept Area Paving Project.

Mayor McDevitt read the resolution.

Tom Tarrant, City Engineer, explained the funding for the project.

Upon motion of Councilman Frank, seconded by Vice-Mayor Bratton, Resolution No. 84-141 was unanimously adopted.

Complete text of Resolution No. 84-141 will be found in Resolution Book No. 15 at page 8.9

APPROVAL OF SUBORDINATION AGREEMENT - BURGERLAND ASSOCIATES

Corporation Counsel Slawter said the law firm of Patla, Straus, Robinson and Moore have requested the City of Asheville to execute a subordination agreement concerning Burgerland Associates. He said this would be a new note in favor of the Northwestern Bank in the amount of $184,000. He said additional collateral would be involved in the Deed of Trust. He said the original Deed of Trust was for $145,000.

Mayor McDevitt requested that he be excused from participation and vote on this issue due to the fact that his firm is regional counsel for Northwestern Bank.

Councilman Bissette moved to excuse Mayor McDevitt from voting on the subordination agreement. This motion was seconded by Councilman Boland and carried unanimously.

Mayor McDevitt said since this was an emergency meeting of the City Council, no other business could be legally conducted, and he asked for a motion to adjourn the meeting.

Upon motion of Councilman Bissette, seconded by Councilman Frank, the meeting adjourned at 4:50 P.M.

Leroy McDevitt
MAYOR

William F. Maurer
CITY CLERK

Friday - August 24, 1984

Emergency Meeting

Present: Mayor Larry McDevitt, Presiding; Vice Mayor Wilhelmina Bratton; Councilmen Mary Lloyd Frank, Walter R. Boland, and Louis Bissette; Acting Corporation Counsel Patsy Brison; Acting City Manager William F. Wolcott, Jr.; Acting City Clerk Margaret Messer.

Absent: Councilmen Norma T. Price and Gordon S. Myers

MOTION - AUTHORIZING THE MAYOR TO EXECUTE MEMORANDUM OF UNDERSTANDING WITH SOUTHEASTERN HISTORIC PROPERTIES INC., - WALL STREET PROJECT

1. Consideration was given to a motion authorizing the Mayor to execute a Memorandum of Understanding with Southeastern Historic Properties, Inc. for the Wall Street Project.

Mayor McDevitt announced that the purpose for calling the emergency meeting of the City Council was to authorize the execution of the Memorandum of Understanding with Southeastern Historic Proprties, Inc. for the Wall Street Project. He said negotiations with Southeastern had been completed last night, and that the MOU must be mailed today.

Mayor McDevitt said the Memorandum of Understanding had been reviewed and discussed by members of Council by telephone. He said the concepts of the MOU were basically the same, except for some minor adjustments. However, he said, these adjustments conform to the basic principals of the MOU, which have been agreed to by Council.

Mayor McDevitt said the Memorandum of Understanding had been executed earlier today by Curt Ratcliff, Chairman of the Buncombe County Board of Commissioners. He said the MOU signed by Chairman Ratcliff reflected an amount of $20,677,000 in Item B on the last page and this amount had been changed to $18,477,000. He said the difference in the two amounts is due to the residential condominiums to be constructed by NCNB Community Development being deleted from the MOU. He said the City would enter into a separate agreement with NCNB Community Development for the construction of the residential condominums, and that a final amendment in the amount of $2,200,000 will be submitted to HUD.

Councilman Bissette said this document (MOU) is the product of many months of work, and the City needs to complete the amendments and deliver them to HUD by next Tuesday, August 28. He said a breakdown on the funding would be $4,500,000 in UDAG funds; $2,600,000 in City/County funding for public improvements; and the balance of the equity will be supplied by the developer.

Vice Mayor Bratton made a motion to authorize the Mayor to execute the Memorandum of Understanding with Southeastern Historic Properties, Inc. This motion was seconded by Councilman Frank and carried unanimously.

Mayor McDevitt announced that copies of the MOU would be available to those members of the press who wished to wait for additional copies to be made.

Mayor McDevitt read the resolution stating that Resolution No. 83-209 relative to the process for election of the Mayor was unanimously adopted by the City Council of the City of Asheville on December 6, 1983, and said Resolution provided that the City Council go on record endorsing the concept of examining the feasibility of the Mayor being elected by the citizens rather than by the present process of being elected by the seven (7) members of the City Council. The City Council has continued to examine the feasibility of the direct election of the Mayor by all of the qualified voters of the City. North Carolina General Statute Section 160A-102 provides that the Council may amend the City Charter by adopting an ordinance pursuant to North Carolina General Statute Section 160A-102 effective only if approved by a vote of the people. It is the sole intent of the members of the Asheville City Council to afford the people of the City of Asheville the opportunity and the right to make the final decision on whether the present method of selecting the Mayor should be continued or whether that method should be changed to provide for the direct election of the Mayor by all of the qualified voters of the City.

Vice-Mayor Bratton, commenting on the resolution, said this resolution would only afford the citizens of Asheville the opportunity to tell members of Council how they feel the election of the Mayor should be held.

Councilman Boland said he understood the concerns of the Vice-Mayor and he was not in opposition to allowing the people to decide how they should elect their Mayor. However, he said, Council should not rush into this matter.

Councilman Boland moved to table action on the resolution until the Public Affairs Committee has an opportunity to examine the present form of government of Asheville. He said, just as important, Council should study the possibility of four-year terms rather than current two-year terms, staggered terms, non-partisan elections and election by ward or district rather than by at large representation. He said the Public Affairs Committee could then present their findings to the citizens of Asheville and they would be better informed on the issue.

Councilman Price said she felt many questions should be answered before presenting such an issue to the citizens. She said she felt the scheduling of the resolution was too tight and there was no flexibility in timing. She said, if approved, this resolution of intent would be followed by a public hearing on the issue at 4:00 p.m. on Monday, September 10, in the City Council Chambers; Council then would vote the following day on whether to approve an ordinance amending the City Charter to allow for direct mayoral election, and the ordinance must be approved on three readings at that meeting to meet an Election Board deadline for getting the issue on the November 6 ballot.

Councilman Bissette said he felt it would be too confusing to have the question on the November, 1985 ballot because the City Council election will be held at the same time. He said if Council did not get this issue on the November 6 ballot, it will not come up again in this Council's term. He said he also felt the November 6 ballot is the place to have the issue because a large number of people will be voting. He said in a special election few people vote.

Councilman Frank said the issue was assigned to the Public Affairs Committee at a priority-setting session at Lake Junaluska in January. She said, however, due to downtown revitilization issues, selection of a new City Manager, and other priorities, the Committee has not had time to deal with this particular question. She said she felt Council was being put under pressure to learn a lot about an issue in a short period of time.

Mr. Fitzgerald Horne spoke in favor of the resolution and a referendum.

Tuesday - August 28, 1984 - 4:00 p.m.

Regular Meeting

Present: Mayor Larry McDevitt, Presiding; Vice-Mayor Wilhelmina Bratton; Councilmen Mary Lloyd Frank, Norma T. Price, Walter R. Boland, and Louis Bissette; Corporation Counsel William F. Slawter; Acting City Manager William F. Wolcott, Jr.; Deputy City Clerk Carol Hensley.

Absent: Councilman Gordon Myers.

INVOCATION

The invocation was given by Councilman Walter Boland.

APPROVAL OF THE MINUTES

1. Approval of the minutes of August 21, 1984 meeting.

Mayor McDevitt announced the approval of the minutes of the August 21, 1984 meeting.

PUBLIC HEARING - DEMOLITION OF 37 EAST CHESTNUT STREET

2. A public hearing was held relative to the adoption of an ordinance directing the Director of Inspections to demolish and remove the apartment house known as 37 East Chestnut Street, Asheville, N.C.

Mayor McDevitt opened the public hearing at 4:07 p.m.

Mayor McDevitt said proceedings have heretofore been instituted in accordance with the provisions of N.C. General Statutes 160A-441 et seq. and the Housing Code of the City of Asheville. A hearing has been held and a Findings of Fact & Order entered finding that the apartment house known as 37 East Chestnut Street, in its present condition, is dilapidated, unfit for human habitation, unsafe and dangerous to life. This property is owned by Mrs. Elizabeth Gage.

The City Manager presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Mayor McDevitt said members of Council were advised during the pre-Council meeting that the owners have started work on the house to bring it into compliance with the Housing Code.

Councilman Price moved to continue the public hearing for 90 days without further advertisement and that a report be given at that time as to the status of the repairs on the house. This motion was seconded by Vice-Mayor Bratton and carried unanimously.

RESOLUTION NO. 84-142 - RESOLUTION OF INTENT TO CONSIDER AN ORDINANCE AMENDING THE CHARTER OF THE CITY OF ASHEVILLE REGARDING THE SELECTION OF MAYOR

3. Consideration was given to a resolution of intent to consider an ordinance amending the Charter of the City of Asheville regarding the selection of Mayor.

PUBLIC HEARING - SITE PLAN OF PROPOSED WHISPERING PINES MOBILE HOME PARK - SWEETEN CREEK ROAD

5. A public hearing was held relative to the site plan of the proposed Whispering Pines Mobile Home Park to be located off Sweeten Creek Road.

Mayor McDevitt opened the public hearing at 5:05 p.m.

The City Manager presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said the Asheville Planning and Zoning Commission at a meeting held August 8, 1984, reviewed the site plan of the proposed Whispering Pines Mobile Home Park to be located off Sweeten Creek Road. The plan was prepared by Kenneth Pankow, Engineer, for Mr. Marshall Kanner, Developer, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of the site plan to City Council subject to compliance with the Erosion Control Ordinance.

Verl Emrick said this property was rezoned by Council in June of this year. Mr. Emrick said the proposed development would consist of 60 mobile home sites and the developers have received commitments for water and sewer services. He said this property is adjacent to an existing mobile home park and meets all the standards for a mobile home park in the R-3 zoning district.

Earl Ward, of Rock Hill Road, said he did not receive notification that the property was to be rezoned in June of this year. He said the residents in the area were opposed to the rezoning as well as the mobile home park. He said the area is currently over populated with mobile homes.

At the request of Council, Mr. Emrick informed the residents in opposition how the property was rezoned, the buffer that would be required, and the proposed access to the mobile home park.

A discussion was held relative to the procedures used in notifying property owners of rezoning issues. Mr. Emrick said the City is not legally required to notify the property owners by mail that property is scheduled to be rezoned. He said a legal notice in the newspaper is the only legal requirement.

Councilman Bissette suggested that one particular staff person be given the responsibility of notifying property owners that property is scheduled to be rezoned, and that particular person sign an affidavit that all property owners were notifed by mail.

Council requested that Mr. Emrick look at alternatives relative to the procedures in notifying property owners of rezoning issues.

Mayor McDevitt closed the public hearing at 5:45 p.m.

Councilman Price moved to approve the site plan of the Whispering Pines Mobile Park to be located off Sweeten Creek Road. This motion was seconded by Councilman Bissette and carried unanimously.

VOTING - On a voice vote of 3-3, Councilman Boland's motion to table action on the resolution failed with Councilman Boland, Councilman Frank, and Councilman Price voting "for" and Councilman Bissette, Vice-Mayor Bratton, and Mayor McDevitt voting "no."

Mayor McDevitt said he has misgivings about changing the system but that he supports the idea of a referendum. He said he felt this is an important opportunity to open up City government and give people more of a voice and opportunity for participation. He said despite his misgivings he felt it is in the greater public interest to let the people decide.

Councilman Price said she would not be voting against letting the people decide but would be voting against the timing of the resolution.

Ralph Bishop spoke in favor of adoption of the resolution. He said he feels the City Manager's position should be eliminated and the Mayor should be the strong leader of the City of Asheville.

On a voice vote of 4-2, Resolution No. 84-142 passed with Mayor McDevitt, Vice-Mayor Bratton, Councilman Bissette, and Councilman Boland voting "yes" and Councilman Price and Councilman Frank voting "no."

Complete text of Resolution No. 84-142 will be found in Resolution Book No. 15 at page 9, 10 and 11.

PUBLIC HEARING - SITE PLAN OF THE PROPOSED WILLOW CREEK MOBILE HOME PARK - OLD HAYWOOD ROAD

4. A public hearing was held relative to the site plan of the proposed Willow Creek Mobile Home Park to be located off Old Haywood Road.

Mayor McDevitt opened the public hearing at 4:56 p.m.

The City Manager presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said the Asheville Planning and Zoning Commission at a meeting held August 8, 1984, reviewed the site plan of the proposed Willow Creek Mobile Home Park to be located off Old Haywood Road. The plan was prepared by Butler-McGill Associates, Engineers, for Mr. William Taylor, Developer, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. Ater review and discussion, the Commission voted to recommend approval of the site plan to City Council subject to compliance with the Erosion Control Ordinance.

Mr. Emrick said this property is outside the City limits but within the one-mile zoning jurisdiction. He said this development would consist of 20 units. He said the developers have received commitments for water and sewer services.

Mayor McDevitt closed the public hearing at 5:04 p.m.

Councilman Price moved to approve the site plan of the proposed Willow Creek Mobile Home Park to be located off Old Haywood Road subject to the conditions stipulated by the Planning and Zoning Commission. This motion was seconded by Councilman Frank and carried unanimously.

APPOINTMENTS TO BOARDS AND COMMISSIONS

7. Mayor McDevitt said during the pre-Council meeting it was the consensus of Council to delay action on appointments to several boards and commissions due to the interest and response received from the general public in serving on boards and commissions.

Councilman Frank moved to appoint the following:

Asheville Civic Center Commission:	Reappointment of Mrs. Pearlman and Mrs. Thompson Appointment of Mike Green and Garrett AlDerfer
Air Pollution Control Board:	Reappointment of Mrs. Shirley Turner
Asheville Transit Authority:	Reappointment of Mrs. H. C. McQueen
Planning & Zoning Commission:	Reappointment of Sonya Friedrich
Tourism Authority:	Reappointment of Mr. Bill Cecil
Asheville Tree Commission:	Reappointment of Verne Rhoades and Susan Mayer
Historic Resources Commission:	Reappointment of Mike Cox

This motion was seconded by Councilman Bissette and carried unanimously.

Mayor McDevitt said as a matter of procedure, resolutions would be introduced at the September 4, 1984 meeting.

RESOLUTION NO. 84-143 - RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF ASHEVILLE TO ENTER INTO A LEASE AGREEMENT WITH THE AREA BOARD OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE FOR PROVIDING THERAPEUTIC RECREATION PROGRAMS AT SHILOH RECREATION CENTER

8. Consideration was given to a resolution authorizing the Mayor of the City of Asheville to enter into a lease agreement with the Area Board of Mental Health, Mental Retardation and Substance Abuse for providing therapeutic recreation programs at Shiloh Recreation Center.

Mayor McDevitt said the City of Asheville is committed to providing public recreation and other community services to the residents of the City. The Area Board of Mental Health has agreed to provide therapeutic recreation activities to certified "Willie M" youth and other emotionally disturbed youth and is in need of a facility in which to provide said services. This resolution will authorize the Mayor to execute a lease agreement with the Area Board of Mental Health for space at Shiloh Recreation Center in order for Blue Ridge Center for Mental Health, Mental Retardation, and Substance Abuse Services to provide therapeutic recreation programs. This is the second consecutive year for the "Willie M" program. This program will bring an additional $1,800 to the City at practically no additional cost, while at the same time providing recreation opportunities for several

PUBLIC HEARING - PROPOSED PARTRIDGE LANE APARTMENT - WATERS ROAD

6. A public hearing was held relative to the site plan of the proposed Partridge Lane Apartments to be located off Waters Road.

Mayor McDevitt opened the public hearing at 5:46 p.m.

The City Manager presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said the Asheville Planning and Zoning Commission at a meeting held August 8, 1984, reviewed the site plan of the proposed Partridge Lane Apartments to be located off Waters Road. The plan was prepared by John Broadbooks, Landscape Architect, for Mr. Terry Lee, Developer, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of the site plan subject to compliance with the Erosion Control Ordinance. The Commission also voted to encourage City Council to proceed with the street improvements at the intersection of Old Haw Creek Road and Middlebrook Road; however, this was not a condition of approval of the project.

Mr. Emrick, by the use of a map, reviewed the location in question. He said the development would consist of 68 units and complies with the Group Development Section of the Zoning Ordinance. He said the Planning and Zoning Commission had discussed the need for street improvements at the intersection of Old Haw Creek Road and Middlebrook Road. He said Council had previously budgeted $31,000 for street improvements in this area. He said this action was taken when a previous developer submitted a proposed development for Cinnamon Ridge. He said at that time developers for Cinnamon Ridge agreed to allocate $20,000 for the street improvements at this intersection. He said, however, the Cinnamon Ridge development has been abandoned and due to the timing of that particular project, reapproval by Council on Cinnamon Ridge would be necessary if the developers so desire.

Councilman Price said she felt strongly that the street improvements at this intersection should be made and capital funds were available from the one-cent sales tax.

Mayor McDevitt closed the public hearing at 5:50 p.m.

Councilman Price moved to approve the site plan of the proposed Partridge Lane Apartments to be located off Waters Road subject to conditions stipulated by the Planning and Zoning Commission and that the City Council proceed with the street improvements at the intersection of Old Haw Creek Road and Middlebrook Road. This motion was seconded by Councilman Boland.

Mayor McDevitt said he felt Council's commitment to the street improvements should not be tied in with the approval of the development. He said this should be two separate issues.

On a voice vote of 5-1, Councilman Price's motion for approval passed, with Mayor McDevitt voting "no."

Mayor McDevitt said he approved of the development, but did not approve committing the City to the street improvements, as part of the approval of the project.

PETITION - ROBIN WOODWARDS - STREET IMPROVEMENTS AND FIRE HYDRANT

Mr. Guy Penland, of 55 Robinwood Avenue, presented a petition signed by the residents of Robinwood Avenue requesting "that the City of Asheville pave the street of Robinwood Avenue; also supply a fire hydrant at the corner of Robinwood Avenue and Woodridge Lane. Eight new homes have been built in this area. It would not be possible for the fire department to put a fire out in this area."

Mr. Penland also said there is no water pressure in the area to put out fires.

Council instructed the City Manger to look into the requests stated in the petition and to give Council a report at next week's meeting.

RESOLUTION NO. 84-145 - RESOLUTION AUTHORIZING THE CITY OF ASHEVILLE TO GRANT A RIGHT-OF-WAY TO THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION

Consideration was given to a resolution authorizing the City of Asheville to grant a right-of-way to the N.C. Department of Transportation.

The City Manager said the N.C. Department of Transportation intends to upgrade and pave approximately 1.5 miles of State Road No. 2576 and approximately 1,376 feet of this project passes over City of Asheville property at the North Fork Water Treatment Plant. He said it would be in the best interest of the City of Asheville to grant the N.C. Department of Transportation the right-of-way for the purpose of upgrading and paving State Road No. 2576.

Upon motion of Councilman Boland, seconded by Councilman Price, Resolution No. 84-145 was unanimously adopted.

Complete text of Resolution No. 84-145 will be found in Resolution Book No. 15 at page 12, 15, 9.

CLAIMS - ADAM DEBOER (PARKS AND RECREATION) - JOHN CARTER (WATER)

The City Manager presented claims received from Adam Deboer (Parks and Recreation) and John Carter (Water).

Mayor McDevitt referred the claims to the Corporation Counsel for investigation and recommendation.

COUNCIL WORK SESSION - THURSDAY, AUGUST 30, 1984 - 5:30 P.M. - CHAMBER OF COMMERCE SERVICES

It was noted that Council would be meeting on Thursday, August 30, 1984 at 5:30 p.m. for a work session in relation to the Chamber of Commerce services to the City of Asheville. It was noted that a report would be given from the City staff relative to these services.

REPORT ON 24 WOODLAWN AND STORM DRAIN REPAIRS IN THE CITY OF ASHEVILLE

Tom Tarrant, City Engineering Coordinator, said it would cost the City between $400,000 and $450,000 to correct problems just in the 49-acre tract in the Woodlawn area and would cost $85,000 to re-route the drain system around the tree stump that is causing the immediate problem. He said in his opinion it would cost between three billion and seven billion dollars to repair the City's storm drain

"special" children. The activities and supervision for these "Willie M" children will be provided by the Blue Ridge Center. The $1,800 rental will cover all costs to the City for heat, utilities, etc. with respect to this program.

Mayor McDevitt said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Councilman Boland explained that a "Willie M" child is defined as somewhat emotionally disturbed and prone to violence.

Upon motion of Councilman Frank, seconded by Councilman Price, Resolution No. 84-143 was unanimously adopted.

Complete text of Resolution No. 84-143 will be found in Resolution Book No. 15 at page 10. 12. 9L

RESOLUTION NO. 84-144 - RESOLUTION ON ACCEPTANCE OF EASEMENTS

9. Consideration was given to a resolution accepting conservation easements for the Pack Plaza area.

Mayor McDevitt said Schneider Nine, Inc. has entered into certain contractual understandings with the City of Asheville and other present owners of certain properties located in Asheville, concerning acquisition and subsequent development of such properties, which, in combination with other properties presently owned by the Grantor, shall comprise the Pack Plaza Development. These properties lie within a Certified Historic District as listed in the National Register of Historic Places and these properties have been stipulated by the Keeper of the National Register of Historic Places as either key or contributing to the historic character of the Asheville Downtown Historic District. It is the intention of the City of Asheville that at such time as Schneider Nine Inc. has acquired fee simple ownership of the subject properties and presents its easements in accordance with applicable law, the City of Asheville shall accept said easements when donated. Further, if said easements are not presented within 48 months from the date of adoption, the resolution shall be of no further force and effect.

Mayor McDevitt said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Carolyn Humphries, with the Historic Resources Commission, spoke in favor of the resolution.

Upon motion of Councilman Boland, seconded by Councilman Price, Resolution No. 84-144 was unanimously adopted.

Complete text of Resolution No. 84-144 will be found in Resolution Book No. 15 at page 13. 13 and 14. 9L

INQUIRY BY COUNCILMEN PURPOSES - APPOINTMENTS TO BOARDS AND COMMISSIONS

Upon inquiry of Mrs. Humphries, Council said recommendations from the various commissions for appointments on the boards would be considered.

Tuesday - September 4, 1984 - 4:00 p.m.

Regular Meeting

Present: Vice-Mayor Wilhelmina Bratton, Presiding; Councilmen Mary Lloyd Frank, Norma T. Price, Walter R. Boland, and Louis Bissette; Corporation Counsel William F. Slawter; Acting City Manager William F. Wolcott, Jr.; Deputy City Clerk Carol Hensley.

Absent: Mayor Larry McDevitt and Councilman Gordon Myers.

INVOCATION

The invocation was given by Councilman Louis Bissette.

APPROVAL OF THE MINUTES - AUGUST 24, 1984 MEETING - EMERGENCY MEETING

1. Approval of the minutes of a special meeting of August 24, 1984.

Upon motion of Councilman Price, seconded by Councilman Boland, the minutes of the August 24, 1984 emergency meeting were unanimously approved as submitted.

APPROVAL OF THE MINUTES - AUGUST 28, 1984 MEETING

2. Approval of the minutes of the August 28, 1984 meeting.

Vice-Mayor Bratton requested that the minutes be amended to include that Mr. Fitzgerald Horne spoke in favor of Resolution No. 84-142.

Upon motion of Councilman Price, seconded by Councilman Boland, the minutes of the August 28, 1984 meeting were unanimously approved as amended.

RESOLUTION NO. 84-146 - RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF ASHEVILLE TO SIGN AGREEMENT WITH THE FEDERAL AVIATION ADMINISTRATION FOR THE TRANSFER OF ENTITLEMENT FUNDS

3. Consideration was given to a resolution authorizing the Mayor of the City of Asheville to sign agreement with the Federal Aviation Administration for the transfer of entitlement funds.

Vice-Mayor Bratton said the FAA allots annually certain funds to air carrier airports. The Asheville Regional Airport is unable to use its entitlement funds of $168,240 for Fiscal Year 1982. These 1982 entitlement funds, if unused within three (3) years, are transferred to the general fund. However, Section 508 (b) (2) of the Airport and Airway Improvement Act of 1982 allows the transfer of entitlement funds to another airport in the State. This resolution will authorize the Mayor of the City of Asheville and Chairman of the Buncombe County Board of Commissioners to sign the FAA Agreement for transfer of entitlements, not to exceed the amount of $168,240 to another airport(s) in the State of North Carolina.

Vice-Mayor Bratton said members of Council were furnished copies of the resolution and it would not be read in its entirety.

system to avoid flooding in areas such as Woodlawn Avenue. He said he offered the city-wide cost estimate with a "disclaimer" saying it could be more or less depending on whether Woodlawn Avenue is a typical example of the problems throughout the City. He said he and other City staff members are working with the Land-of-Sky Regional Council to determine how extensive the problem is, and that the results of this study should be followed by a complete inventory of the storm drain system and a master plan and policies on how to correct problems in the system.

After discussion, Council requested that staff report back next week to Council with cost estimates on removing a tree stump that is causing the immediate problem at 24 Woodlawn Avenue.

ADJOURN TO EXECUTIVE SESSION

Councilman Frank moved that Council go into Executive Session to discuss a legal and real estate matter. This motion was seconded by Councilman Price and carried unanimously.

Gary McDevitt
MAYOR

William F. Maheeter
CITY CLERK

Vice-Mayor Bratton said this project needs to be completed before more damage to the structure occurs. The City Engineering Division has reviewed the qualifications and proposal of Sutton-Kennerly and Associates and recommends they be accepted. The City Council deems it to be in the best interest of the City of Asheville to enter into an Agreement with Sutton-Kennerly and Associates to perform consulting work for Fire Station #8 roof replacement. These repairs were not anticipated during the Fiscal 1984/85 Budget process. Fire Station #8 repairs are estimated to cost $64,100. A budget amendment establishing a capital appropriation for this item will be submitted to Council prior to bid being awarded. The General Capital Reserve Funds will be used to fund this item.

Vice-Mayor Bratton said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Frank, seconded by Councilman Price, Resolution No. 84-148 was unanimously adopted.

Complete text of Resolution No. 84-148 will be found in Resolution Book No. 15 at page 19 .

RESOLUTION NO. 84-149 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A MUNICIPAL AGREEMENT WITH THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION FOR THE REPLACEMENT OF SMITH BRIDGE, PROJECT NO. 8.2840101-BRZ-1302(3)

b. Consideration was given to a resolution authorizing the Mayor to execute a municipal agreement with the North Carolina Department of Transportation of the replacement of Smith Bridge, Project No. 8.2840101-BRZ-1302 (3).

Vice-Mayor Bratton said this municipal agreement will provide for the replacement and construction of Smith Bridge over the French Broad River on West Haywood Street, under the Federal-Aid Highway Bridge Replacement and Rehabilitation Program. There will be minor administrative cost to the City as this project is to be administered by N. C. Department of Transportation. There could be an expenditure of up to $100,000 spread over 10 years. This amount is in the current Capital Budget. There will be a positive impact of reopening another access to the businesses along Craven Street, Riverside Drive and West Haywood Street.

Vice-Mayor Bratton said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Bissette, seconded by Councilman Boland, Resolution No. 84-149 was unanimously adopted.

Complete text of Resolution No. 84-149 will be found in Resolution Book No. 15 at page 16. 20

Councilman Price said it should be noted that this action should not be construed that funds are not needed for the airport. She said funds are needed for the airport, however these funds cannot be used for these purposes.

Upon motion of Councilman Boland, seconded by Councilman Price, Resolution No. 84-146 was unanimously adopted.

Complete text of Resolution No. 84-146 will be found in Resolution Book No. 15 at page 13. 11 9L

RESOLUTION NO. 84-147 - RESOLUTION AUTHORIZING THE MAYOR TO SIGN ON BEHALF OF THE CITY OF ASHEVILLE A CONSULTANT CONTRACT WITH SUTTON-KENNERLY AND ASSOCIATES FOR THE PROJECT KNOWN AS THE ASHEVILLE TRANSIT AUTHORITY ROOF REPLACEMENT

4. Consideration was given to a resolution authorizing the Mayor to execute an agreement on behalf of the City of Asheville with Sutton-Kennerly and Associates for consultant services relative to the Roof Replacement Project for the Asheville Transit Authority.

Vice-Mayor Bratton said this project needs to be completed before more damage to the structure occurs. The City Engineering Division has reviewed the qualifications and proposal of Sutton-Kennerly and Associates and recommends they be accepted. The City Council deems it to be in the best interest of the City of Asheville to enter into an Agreement with Sutton-Kennerly and Associates to perform consulting work for the Asheville Transit Authority roof replacement. These repairs were not anticipated during the Fiscal 1984/85 Budget process. The ATA repairs can be funded from remaining uncommitted capital grant funds. The estimated cost is $52,300. A budget amendment establishing a capital appropriation for this item will be submitted to Council prior to the bid being awarded. The General Capital Reserve Funds will be used to fund this item.

Vice-Mayor Bratton said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Frank, seconded by Councilman Boland, Resolution No. 84-147 was unanimously adopted.

Complete text of Resolution No. 84-147 will be found in Resolution Book No. 15 at page 14. 18 9L

RESOLUTION NO. 84-148 - RESOLUTION AUTHORIZING THE MAYOR TO SIGN ON BEHALF OF THE CITY OF ASHEVILLE A CONSULTANT CONTRACT WITH SUTTON-KENNERLY AND ASSOCIATES FOR THE PROJECT KNOWN AS FIRE STATION #8 ROOF REPLACEMENT

5. Consideration was given to a resolution authorizing the Mayor to execute an agreement with Sutton-Kennerly and Associates for consultant services relative to the Roof Replacement Project at Fire Station #8 on Highway 70 East.

Complete text of Resolution No. 84-151 will be found in Resolution Book No. 15 at page 18. 22

RESOLUTION NO. 84-152 - RESOLUTION AUTHORIZING THE MAYOR ON BEHALF OF THE CITY OF ASHEVILLE TO EXECUTE A SETTLEMENT AGREEMENT BETWEEN THE CITY OF ASHEVILLE AND APAC - CAROLINA, INC., ASHEVILLE DIVISION.

9. Consideration was given to a resolution authorizing the Mayor on behalf of the City of Asheville to execute a settlement agreement between the City of Asheville and APAC - Carolina, Inc., Asheville Division.

Vice-Mayor Bratton said the City of Asheville and APAC - Carolina, Inc., Asheville Division (APAC) entered into a contract dated March 26, 1982, for the construction of asphalt pavement and certain other improvements on College Street and Patton Avenue in downtown Asheville. Subsequent to completion of the contract, significant cracking has developed in the pavement. The City instituted arbitration proceedings with the American Arbitration Association. The Council deems it appropriate at this time to settle all matters between the City and APAC concerning said contract. The Director of Public Works, the City Manager, and the Corporation Counsel have recommended that the matter be settled. Total estimated cost of this settlement will be $7,358.12, which can be absorbed into the Street Division operating budget fiscal impact.

Vice-Mayor Bratton said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Frank, seconded by Councilman Price, Resolution No. 84-152 was unanimously adopted.

Complete text of Resolution No. 84-152 will be found in Resolution Book No. 15 at page 19. 23

RESOLUTION NO. 84-153 - RESOLUTION DIRECTING THE ASHEVILLE HOUSING AUTHORITY TO PREPARE THE REDEVELOPMENT PLAN FOR THE WALL STREET AND ENVIRONS PROJECT AREA.

10. Consideration was given to a resolution directing the Asheville Housing Authority to prepare the redevelopment plan for the Wall Street and Environs Project Area.

Vice-Mayor Bratton said the Asheville Planning and Zoning Commission has certified that the project area generally known as the Wall Street and Environs Project Area meets the criteria of North Carolina General Statutes 160A-503(10) defining a "Non-residential Redevelopment Area," and has designated said area as such. This resolution will authorize the Housing Authority to proceed with the Redevelopment Plan. There will be a cost range between $10,000 - $15,000. The Housing Authority will provide exact cost within the next week. Funds for this cost has previously been allocated.

RESOLUTION NO. 84-150 - RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN AN AGREEMENT FOR PERMANENT PARTIAL DISABILITY UNDER THE NORTH CAROLINA WORKERS' COMPENSATION ACT (RICKIE HARPER).

7. Consideration was given to a resolution authorizing the City Manager to sign an agreement for permanent partial disability under the North Carolina Workers' Compensation Act (Rickie Harper).

Vice-Mayor Bratton said Rickie A. Harper sustained a compensable injury under the North Carolina Workers' Compensation Act on or about the 8th day of November, 1983. The employee has returned to full duty as of July 30, 1984. As a result of the injury Mr. Harper sustained a 10% permanent partial disability to his back. The City wishes to compensate for his permanent partial disability under Chapter 97 of N. C. General Statutes.

This settlement for $7,440.00 will fully compensate Mr. Harper for his 10% permanent partial disability to his back, under the N. C. Workers' Compensation Act. Funds for this settlement are budgeted in the Water Department's 1984-85 budget.

Vice-Mayor Bratton said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Frank, seconded by Councilman Bissette, Resolution No. 84-150 was unanimously adopted.

Complete text of Resolution No. 84-150 will be found in Resolution Book No. 15 at page 17, 21 ~~21~~.

RESOLUTION NO. 84-151 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A LEASE AGREEMENT WITH NU-WAY FOOD SERVICE, INC. FOR THE PURPOSE OF LEASING SPACE FROM THE CITY OF ASHEVILLE ON ITS RADIO TOWER LOCATED AT PEACH KNOB.

8. Consideration was given to a resolution authorizing the City Manager to enter into a lease agreement with Nu-way Food Service, Inc. for the purpose of leasing space from the City of Asheville on its radio tower located at Peach Knob.

Vice-Mayor Bratton said the City of Asheville owns and operates a two-way FM radio tower located at the top of Peach Knob. Nu-Way Food Service, Inc. desires to lease space from the City of Asheville on the City's premises for the purpose of installing and maintaining a two-way FM transmitter. The City of Asheville and Nu-Way Food Service, Inc. has agreed to the terms of the lease.

This resolution will generate $1,200.00 per year in rental revenue to the City. Costs for leasing this space will be approximately $11.00 per month for electrical service.

Vice-Mayor Bratton said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Boland, seconded by Councilman Frank, Resolution No. 84-151 was unanimously adopted.

Vice-Mayor Bratton said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Frank, seconded by Councilman Bissette, Resolution No. 84-156 was unanimously adopted.

Complete text of Resolution No. 84-156 will be found in Resolution Book No. 15 at page 24. 27 9

RESOLUTION NO. 84-157 - RESOLUTION APPOINTING A MEMBER TO THE ASHEVILLE AREA CIVIC CENTER COMMISSION (MS. SALLY PEARLMAN).

14. Consideration was given to a resolution appointing a member to the Asheville Area Civic Center Commission.

Councilman Frank said this resolution would reappoint Ms. Sally Pearlman as a member of the Asheville Area Civic Center Commission.

Vice-Mayor Bratton said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Frank, seconded by Councilman Bissette, Resolution No. 84-157 was unanimously adopted.

Complete text of Resolution No. 84-157 will be found in Resolution Book No. 15 at page 24. 28 9

RESOLUTION NO. 84-158 - RESOLUTION APPOINTING A MEMBER TO THE ASHEVILLE AREA CIVIC CENTER COMMISSION (MR. GARRETT ALDERFER).

15. Consideration was given to a resolution appointing a member to the Asheville Area Civic Center Commission.

Councilman Frank said this resolution would appoint Mr. Garrett AlDerfer as a member of the Asheville Area Civic Center Commission.

Vice-Mayor Bratton said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Frank, seconded by Councilman Bissette, Resolution No. 84-158 was unanimously adopted.

Complete text of Resolution No. 84-158 will be found in Resolution Book No. 15 at page 25. 29 9

RESOLUTION NO. 84-159 - RESOLUTION APPOINTING A MEMBER TO THE ASHEVILLE AREA CIVIC CENTER COMMISSION (MR. MIKE GREENE).

16. Consideration was given to a resolution appointing a member to the Asheville Area Civic Center Commission.

Councilman Frank said this resolution would appoint Mr. Mike Greene as a member of the Asheville Area Civic Center Commission.

Vice-Mayor Bratton said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Larry Holt, Deputy Executive Director of the Asheville Housing Authority, said this resolution will authorize the Housing Authority to prepare the redevelopment plan for the Wall Street Area. By the use of a map, Mr. Holt reviewed the areas to be redeveloped.

Upon motion of Councilman Bissette, seconded by Price, Resolution No. 84-153 was unanimously adopted.

Complete text of Resolution No. 84-153 will be found in Resolution Book No. 15 at Page 20. 34

RESOLUTION NO. 84-154 - RESOLUTION APPOINTING MEMBER TO THE ASHEVILLE/-BUNCOMBE HISTORIC RESOURCES COMMISSION (REAPPOINTMENT OF MR. MIKE COX).

11. Consideration was given to a resolution appointing member to the Asheville-Buncombe Historic Resources Commission.

Councilman Frank said this resolution would reappoint Mr. Mike Cox to the Asheville-Buncombe Historic Resources Commission.

Upon motion of Councilman Frank, seconded by Councilman Bissette, Resolution No. 84-154 was unanimously adopted.

Complete text of Resolution No. 84-154 will be found in Resolution Book No. 15 at page 21. 35

RESOLUTION NO. 84-155 - RESOLUTION APPOINTING MEMBER TO THE ASHEVILLE TREE COMMISSION (REAPPOINTMENT OF MR. VERNE RHOADES).

12. Consideration was given to a resolution appointing member to the Asheville Tree Commission.

Councilman Frank said this resolution would reappoint Mr. Verne Rhoades as a member of the Asheville Tree Commission.

Vice-Mayor Bratton said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Frank, seconded by Councilman Bissette, Resolution No. 84-155 was unanimously adopted.

Complete text of Resolution No. 84-155 will be found in Resolution Book No. 15 at page 22. 36

RESOLUTION NO. 84-156 - RESOLUTION APPOINTING MEMBER TO THE ASHEVILLE AREA CIVIC CENTER COMMISSION (REAPPOINTMENT OF MS. CAROLYN THOMPSON).

13. Consideration was given to a resolution appointing a member to the Asheville Area Civic Center Commission.

Councilman Frank said this resolution would reappoint Ms. Carolyn Thompson as a member of the Asheville Area Civic Center Commission.

Vice-Mayor Bratton said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Frank, seconded by Councilman Bissette, Resolution No. 84-162 was unanimously adopted.

Complete text of Resolution No. 84-162 will be found in Resolution Book No. 15 at page 29. 33 9

RESOLUTION NO. 84-163 - RESOLUTION APPOINTING A MEMBER TO THE TOURISM DEVELOPMENT AUTHORITY (MR. WILLIAM A. V CECIL).

20. Consideration was given to a resolution appointing a member to the Tourism Development Authority.

Councilman Frank said this resolution would reappoint Mr. William A. V. Cecil as a member of the Tourism Development Authority.

Vice-Mayor Bratton said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Frank, seconded by Councilman Bissette, Resolution No. 84-163 was unanimously adopted.

Complete text of Resolution No. 84-163 will be found in Resolution Book No. 15 at page 30. 34 9

RESOLUTION NO. 84-164 - RESOLUTION APPOINTING A MEMBER TO THE ASHEVILLE TREE COMMISSION (MRS. SUSAN MAYER).

21. Consideration was given to a resolution appointing a member to the Asheville Tree Commission.

Councilman Frank said this resolution would reappoint Mrs. Susan Mayer as a member of the Asheville Tree Commission.

Vice-Mayor Bratton said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Frank, seconded by Councilman Bissette, Resolution No. 84-164 was unanimously adopted.

Complete text of Resolution No. 84-164 will be found in Resolution Book No. 15 at page 31. 35 9

DISCUSSION RELATIVE TO SIGNS FOR YARD SALES, RUMMAGE SALES, AND POLITICAL

Councilman Price said she had received a number of complaints relative to the number of yard sales and rummage sales sign being placed in the City of Asheville. She said with the upcoming election, there will probably be many political signs being placed in various locations.

Mr. Emrick, Director of Planning, said under the Sign Ordinance, no private signs are allowed on the public right-of-way. He said all political signs must be removed within 10 days after the political race.

Vice-Mayor Bratton said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Frank, seconded by Councilman Bissette, Resolution No. 84-159 was unanimously adopted.

Complete text of Resolution No. 84-159 will be found in Resolution Book No. 15 at Page 26. 30

RESOLUTION NO. 84-160 - RESOLUTION APPOINTING A MEMBER TO THE WESTERN NORTH CAROLINA AIR POLLUTION BOARD (MRS. SHIRLEY TURNER).

17. Consideration was given to a resolution appointing a member to the Western North Carolina Air Pollution Board.

Councilman Frank said this resolution would reappoint Mrs. Shirley Turner as a member of the Western North Carolina Air Pollution Board.

Vice-Mayor Bratton said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Frank, seconded by Councilman Bissette, Resolution No. 84-160 was unanimously adopted.

Complete text of Resolution No. 84-160 will be found in Resolution Book No. 15 at page 27. 31

RESOLUTION NO. 84-161 - RESOLUTION APPOINTING A MEMBER TO THE ASHEVILLE TRANSIT AUTHORITY (MRS. H. C. McQUEEN).

18. Consideration was given to a resolution appointing a member to the Asheville Transit Authority.

Councilman Frank said this resolution would reappoint Mrs. H. C. McQueen as a member of the Asheville Transit Authority.

Vice-Mayor Bratton said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Frank, seconded by Councilman Bissette, Resolution No. 84-161 was unanimously adopted.

Complete text of Resolution No. 84-161 will be found in Resolution Book No. 15 at page 28. 32

RESOLUTION NO. 84-162 - RESOLUTION APPOINTING A MEMBER TO THE PLANNING AND ZONING COMMISSION (MRS. SONYA FRIEDRICH)

19. Consideration was given to a resolution appointing a member to the Planning and Zoning Commission.

Councilman Frank said this resolution would reappoint Mrs. Sonya Friedrich as a member of the Planning and Zoning Commission.

Monday, September 10, 1984 - 4:00 p.m.

Special Meeting:

Present: Mayor Larry McDevitt, Presiding; Vice-Mayor Wilhelmina Bratton; Councilmen Mary Lloyd Frank, Norma T. Price, Gordon Myers, Walter R. Boland, and Louis Bissette; Corporation Counsel William F. Slawter; Acting City Manager William F. Wolcott, Jr.; Deputy City Clerk Carol Hensley.

Absent: None

PUBLIC HEARING - REFERENDUM ON AMENDING THE CHARTER OF THE CITY OF ASHEVILLE TO PROVIDE FOR DIRECT ELECTION OF THE MAYOR

1. Mayor McDevitt said the purpose for the public hearing is to receive public comments relative to amending the Charter of the City of Asheville to provide for the direct election of the Mayor by all the qualified voters of the City. He said a public hearing is required prior to submitting the proposed ordinance to the voters in a referendum.

Mayor McDevitt opened the public hearing at 4:03 p.m.

The City Manager presented a notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Mayor McDevitt read Resolution No. 84-142, adopted August 28, 1984, scheduling this public hearing. He also read the proposed ordinance amending the Charter of the City of Asheville to provide for the direct election of Mayor by all the qualified voters of the City.

At this time, Mayor McDevitt opened the floor for citizen comments requesting that they limit their comments to three minutes.

Florence Ryan, 74 Wembley Road, said she felt Council should not rush into such an important matter at this time. She said the November 6 ballot would be including many races on the national, state, and county level, and another question on the ballot might confuse the issue. She said this was the wrong time to place such a question on a ballot.

Rev. Wendall Christopher, speaking on behalf of the Interdenominational Christian Ministerial Alliance Association, said the present process for election of the Mayor is "outdated" and "a self-perpetuating method from the past." He said he felt the direct election of the Mayor would give the citizens of Asheville an opportunity to choose their Mayor. He said he would be in favor of this question being placed on the November 6 ballot, and he would be in favor of the direct election of the Mayor by the qualified voters of the City.

Ralph Bishop also spoke in favor of the direct election of the Mayor by the qualified voters of the City. He said the City of Asheville needs strong leadership and should have a full-time strong Mayor.

The City Manager said he would have the Inspections Division look into the concern expressed by Councilman Price.

CLAIMS - C & J PRODUCE CO. (STREETS) - NANCY RHYMER (WATER) - J. DONALD WILLIAMS (SEWER) - JIM DAVIS (POLICE) - EUGENE LEHR (WATER) - WILMA DREYMAN (WATER) - SHIRLEY EDWARDS (WATER).

The City Manager presented claims received from C & J Produce Co., Nancy Rhymer, J. Donald Williams, Jim Davis, Eugene Lehr, Wilma Dreyman and Shirley Edwards.

Vice-Mayor Bratton referred the claims to the Corporation Counsel for investigation and recommendation.

LAWSUITS - ASHEVILLE HOUSING AUTHORITY, CONDEMNATION OF ROSCO PRICE PROPERTY (E. END/VALLEY STREET - ASHEVILLE HOUSING AUTHORITY, CONDEMNATION OF ISSAC DICKSON PROPERTY (E. END/VALLEY STREET).

The City Manager said the City was served with a summons in connection with lawsuits involving the Asheville Housing Authority on condemnation of Rosco Price property (E. End/Valley Street) and condemnation of Issac Dickson property (E. End/Valley Street.

Vice-Mayor Bratton referred the summons to the Corporation Counsel for investigation and recommendation.

RALPH BISHOP - COMMENTS RELATIVE TO INVOLVEMENT OF THE CITY OF ASHEVILLE UDAG FUNDS.

Upon inquiry of Mr. Ralph Bishop, Corportion Counsel Slawter answered questions relative to the involvement of the City of Asheville on the loaning of UDAG funds.

ADJOURNMENT

Councilman Boland moved to adjourn the meeting at 4:50 p.m. This motion was seconded by Councilman Frank and carried unanimously.

Lee McDevitt
MAYOR

Marian F. Holcombe
CITY CLERK

Matthew Baccoate said he did not think the issue should be placed on the November 6 ballot. He said the voters may be too inundated with political issues with races on the national, state, and county level to consider yet another referendum. He said a better time for the issue would be after the first of the year, and the citizens would have an opportunity to study the issue separately.

Leo Ferguson said he was also concerned about the issue being placed on the November 6 ballot. He said he did not feel ample time had been given to studying the proposed change. He said the total picture should be studied, rather than singling out the "Mayorship." He said he felt it is very important to educate the public prior to placing such an issue on a ballot.

Mayor McDevitt said in order to meet North Carolina General Statutes guidelines, an ordinance would be placed on the City Council agenda for September 11, to consider amending the City Charter to provide for the direct election of Mayor by the qualified voters of the City. He said the ordinance would require three readings on September 11, 1984, in order to be placed on the November 6 ballot.

Councilman Myers expressed his regrets for having missed several of the Council meetings recently due to vacations and unavoidable business meetings which were held out of town. He said, however, he had been in contact on a weekly basis with the Mayor concerning the City's ongoing business and the results of the Council meetings. He said he felt Council might be rushing into a judgement relative to the direct election of Mayor. He said he, too, felt the citizens of Asheville are capable of electing a Mayor; however, he felt this would be the first step in changing the City of Asheville's form of government from a strong City Manager to a strong Mayor. He said this might create unnecessary power. He said sometimes too much politics are involved in an issue, and he felt this Council has been positive and accomplished many things. He asked Council not to make a rushed judgement in our present confused political climate.

Councilman Boland concurred with the remarks made by Councilman Myers saying there was a possibility that a motion would be introduced on September 11, 1984, to postpone consideration of the issue for further study.

Vice-Mayor Bratton said the citizens of Asheville should be given the opportunity to say how the procedure for the election of the Mayor should be. She said this needed to be dealt with by the community and said it would be "a great injustice" if the voters were not allowed to settle the issue at the polls in November.

Councilman Price said a public hearing was held about four years ago on this same issue, and about four people attended, which showed little interest in changing the system.

Councilman Frank said she resented being pressured into making a decision on an issue that has not been fully studied by the members of Council or the citizens of Asheville. She also questioned the language in Resolution No. 84-142 which stated that North Carolina General Statute 160A-102 provides that the Council may amend the City Charter by adopting an ordinance pursuant to this section effective only if approved by the vote of the people. She said she felt this section only dealt with the procedure in electing a Mayor.

Bob Plemmons, 40 Dortch Avenue, said he did not feel the public has been sufficiently informed about what they would be voting on. He said one public hearing does not give the citizens enough "public education" to vote on such an issue. He requested that Council postpone action until all questions relative to the direct election of
the Mayor are answered.

Carl Johnson, Hillcrest Apartments, said that an elected Mayor would provide a more modern government and place Asheville more in line with other large cities in the State. He said he would be in favor of the issues being placed on the November 6 ballot, and he would be in favor of the direct election of the Mayor by the citizens of Asheville.

Minnie Jones, 15-B Stewart Street, also spoke in favor of the direct election of the Mayor by the citizens of Asheville.

Joyce Coutlakis, 174 Pearson Drive, said the citizens of Asheville should not vote on an issue without more information. She said she felt the November 6 ballot is too crowded to include another issue. She requested that Council delay action to request a referendum until the citizens of Asheville have an opportunity to study the issue.

Emmanuel Coutlakis, 174 Pearson Drive, said he felt the direct election of a Mayor needs a lot of study. He said he would be telling everyone to vote against this issue if placed on the November 6 ballot until the citizens know more about the issue.

Joe Morgan, 61 Church Street, spoke in favor of a direct election of a Mayor. He said this would be a more democratic way than having the Council select the City's top official.

Mr. Fitzgerald Horne said he felt there is a need for a referendum on the November 6 ballot to afford the citizens of Asheville an opportunity to express their opinion on the procedure for election of the Mayor. He said the citizens are ready, able, and capable of electing a Mayor for the City of Asheville.

Edison Hill spoke in opposition to placing the issue on the November 6 ballot. He said he did not feel the present procedure is "broken" and Council should not "tinker" with it.

Mrs. Richard Davis, 142 Edwin Place, said there are already too many issues on the November 6 ballot. She said she did not feel the citizens pay attention to referendums. She said Council should consider this issue further before placing it before the voters.

Sid Henry, of West Asheville, said the citizens of Asheville have not had an opportunity to study the process of direct election of a Mayor and Council should delay action until the citizens are more informed.

Renea White said the citizens of Asheville need more time to study the proposed procedures for the direct election of the Mayor before placing it on a ballot.

Tuesday - September 11, 1984 - 4:00 p.m.

Regular Meeting

Present: Mayor Larry McDevitt, Presiding; Vice-Mayor Wilhelmina Bratton; Councilmen Mary Lloyd Frank, Norma T. Price, Walter R. Boland, and Louis Bissette; Corporation Counsel William F. Slawter; Acting City Manager William F. Wolcott, Jr.; Deputy City Clerk Carol Hensley.

Absent: Councilman Gordon Myers.

INVOCATION

The invocation was given by Councilman Norma Price.

APPROVAL OF THE MINUTES

1. Approval of the minutes of September 4, 1984 meeting.

Mayor McDevitt announced the approval of the minutes of September 4, 1984 as submitted.

RECOGNITION OF LARRY FISHER - DIRECTOR OF FINANCE - "AWARD OF FINANCIAL REPORTING ACHIEVEMENT"

2. Mayor McDevitt recognized Mr. Larry Fisher, Director of Finance, for receiving an "Award of Financial Reporting Achievement" from the Government Municipal Finance Officers Association. He presented Mr. Fisher with the certificate and a plaque to the City of Asheville for a "Certificate of Conformance for Financial Reporting."

Mayor McDevitt also recognized Charlotte Tell, City Accountant, for her efforts in receiving this award.

PROCLAMATION - "FRENCH BROAD RIVER WEEK" - SEPTEMBER 8-16, 1984

3. Mayor McDevitt read a proclamation proclaiming September 8-16, 1984 as "French Broad River Week."

PROCLAMATION - "PRINCE HALL MASONIC WEEK" - SEPTEMBER 16-22, 1984

4. Mayor McDevitt read of a proclamation proclaiming September 16-22, 1984 as "Prince Hall Masonic Week."

PUBLIC HEARING - REZONING PROPERTY LOCATED ON SWANNANOA RIVER ROAD

ORDINANCE NO. 1464 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED. (REZONING PROPERTY ON SWANNANOA RIVER ROAD FROM CS TO LI)

5. A public hearing was held relative to rezoning property located on Swannanoa River Road.

Councilman Price questioned under the proposed ordinance whether or not any safeguards would be included against an elected Mayor also holding a City Manager position. She also questioned whether or not a Mayor would have the right to vote, and if so, whether or not he would have to exercise such a right. She said if the Mayor was not required to vote, what procedure would be used in ordinances requiring three-fourths affirmative votes by members of Council. She requested that the City Attorney research these questions and report the answers to Council before the ordinance is considered on Tuesday, September 11, 1984.

Mayor McDevitt closed the public hearing at 5:20 p.m.

ADJOURNMENT

Upon motion of Councilman Boland, seconded by Vice-Mayor Bratton, the meeting adjourned at 5:20 p.m.

Mayor

City Clerk

PUBLIC HEARING - FINAL PLAT - "ASHWOOD SUBDIVISION" - SCHOOL ROAD IN OAKLEY

6. A public hearing was held relative to the final plat of the proposed "Ashwood Subdivision" to be located on School Road in Oakley.

Mayor McDevitt said the Planning and Zoning Commission met on January 11, 1984, and approved the preliminary plat for the "Ashwood Subdivision" to be located on School Road in Oakley. The plat was prepared by Ray Anders, R.L.S., for Dale Stierwalt, Developer, and submitted in accordance with Ordinance No. 424. The final plat meets all requirements of the Subdivision Ordinance, and the Planning and Zoning Commission recommends that City Council approve the plat.

Mayor McDevitt opened the public hearing at 4:32 p.m.

The City Manager presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Marvin Vierra, of the Planning staff, said this property is located off of School Road in the Oakely Section. He said the final plat meets all requirements of Ordinance No. 424, being the Subdivision Ordinance. He said the project consists of 43 lots, and water and sewer commitments have been received.

Mr. J. H. Robertson told members of Council that he owns property south and west of the proposed development. He said he felt all environmental erosion control requirements should be met on this project. He said there are no drainage provisions to protect the surrounding properties. He said the developer has started construction on one unit which is approximately 60% complete. He said the silt and mud from the project is draining on to his property.

Mr. Ray Anders, Engineer for the project, said the project is being controlled with silt ponds, and to his knowledge no drainage is occurring on the surrounding properties. He said he and the developer have met with Erosion Control officials.

A discussion was held relative to construction being started on the project prior to final approval of the plat by the City Council.

Mr. Dale Stierwalt, Developer of the proposed "Ashwood Subdivision," said in his opinion the silt pond is adequate to prevent drainage on to surrounding properties.

Further discussion was held relative to the erosion control problems mentioned by Mr. Robertson.

Councilman Frank said she would like assurance that an erosion control inspection is made on the project.

Councilman Boland requested the City Manager make sure that an erosion control inspection is made and all requirements of the Erosion Control Ordinance are met.

Mayor McDevitt closed the public hearing at 4:48 p.m.

Mayor McDevitt said the Asheville Planning and Zoning Commission at its meeting on August 8 considered the rezoning of Ward 8, Sheet 18, Lot 48 and Ward 8, Sheet 26, Lots 240, and 237 from CS Commercial Service District to LI Light Industrial District. Staff pointed out that this property on Swannanoa River Road has been under-utilized for some time and there exists a potential at this time for reuse of the vacant structure on Lot 48. Also, the Asheville Chamber of Commerce lists this property as potential industrial property. After discussion, the Commission voted to recommend approval of this rezoning to City Council. This public hearing was originally scheduled for August 28, 1984; however, due to an omission in the legal advertisement, the public hearing was rescheduled at the August 21 meeting for September 11, 1984, and readvertised.

Mayor McDevitt opened the public hearing at 4:21 p.m.

The City Manager presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Marvin Vierra, of the Planning staff, said this property is located north of Charlotte Highway on Swannanoa River Road. He presented an aerial photograph of the property in question.

Mr. Vierra said there were no objections expressed at the Planning and Zoning Commission meeting held on August 8, 1984. Upon inquiry of Council, Mr. Vierra said notifications of the proposed rezoning were given to the adjacent property owners; however, no notifications were given to the residents in the Beverly Hills area.

Gary Rowe, Attorney, representing Allison-Erwin Company, owner of Ward 8, Sheet 26, Lot 240 and 237, said his client has no specific plans for the property at the present. He said, however, his clients have been contacted by several individuals including manufacturing companies for use of the property. He requested that Council rezone the property to Light Industrial.

Mayor McDevitt closed the public hearing at 4:30 p.m.

Mayor McDevitt said members of Council were furnished copies of the ordinance and it would not be read in its entirety.

Councilman Boland moved for the adoption of Ordinance No. 1464. This motion was seconded by Councilman Bissette.

On a roll call vote of 6-0, Ordinance No. 1464 passed on first reading.

Mr. Vierra said the attorney has requested three readings on the ordinance at today's meeting.

Councilman Price said she has concerns about having three readings on a rezoning ordinance in one day. She said she would like to await the readings to give property owners an opportunity to be heard if they so desire.

Councilman Boland moved to postpone voting on the proposed ordinance concerning the direct election of the Mayor, stating that he was in favor of the direct election of the Mayor in principle; however, he was concerned that the Council is rushing into amending the Charter without reviewing all aspects of the Charter in connection with the role of the Mayor. He said he felt the change would enhance the powers of the Mayor. He said this particular amendment would be moving away from the Council/Manager-type government to a Mayor/Council-type government. He said other issues or options should be addressed such as four-year council terms rather than the current two-year terms, staggered terms, non-partisian elections, and elections by ward or district as opposed to at-large representation or a combination thereof. He further moved that the proposed ordinance be referred to the City Council Public Affairs Committee with instructions to study the issue and report back to Council by mid-October, 1984, in order for a referendum to be held on Tuesday, January 29, 1985, and prior to a vote of the people, that Council vote on the proposed ordinance on three separate readings on October 23, October 30, and November 6, 1984.

Mayor McDevitt said this motion was technically out-of-order unless Councilman Boland also included a provision to remove the proposed ordinance from consideration on this agenda.

Councilman Boland responded that in essence he would be removing the item from the agenda by his motion to delay action. This motion was seconded by Councilman Price.

A discussion was held relative to legal requirements, if the proposed ordinance received substantial amendments.

Corporation Counsel Slawter said if the proposed ordinance is substantially amended, the process, in his opinion, should be started over. He said in order to meet the legal requirements, the process could not be started over now and still be placed on the November 6 ballot.

Councilman Bissette said he did not feel a January referendum would be as effective as aNovember 6 vote.

Councilman Price said she felt the proposed ordinance needs clarification.

Vice-Mayor Bratton said she intends to vote against the motion to postpone action on the ordinance. She said she felt this issue has been blown out of proportion, that the only intent of the referendum is to give the citizens of Asheville an opportunity to say what procedure should be used for the election of the Mayor. She said as far as public education is concerned, "Leadership Asheville" has agreed to hold forums in September and October at UNC-A on the issue for the direct election of the Mayor. She said she felt the proposed delay is nothing more than a political scheme. She said a referendum in January would have a low turnout of voters.

Councilman Frank said the Public Affairs Committee has previously received information from the Institute of Government on this particular issue. She said even if delayed, the referendum could still be held prior to the City Council election in 1985. She said she still felt the language in the resolution relative to North Carolina General Statutes 160A-102 should be changed. She said she would also need assurance that the City would continue with a weak mayor form of government.

Councilman Bissette moved to approve the final plat of the proposed "Ashwood Subdivision" to be located on School Road in Oakley, with the provision that an erosion control inspection be made and the project found in compliance with the Erosion Control Ordinance, and that the City Manager report to Council on September 18, 1984 on the subdivision°s compliance to the Erosion Control Ordinance.

This motion was seconded by Vice-Mayor Bratton and carried unanimously.

ORDINANCE NO. 1465 - AN ORDINANCE AMENDING THE CHARTER OF THE CITY OF ASHEVILLE TO PROVIDE FOR A DIRECT ELECTION OF THE MAYOR BY ALL THE QUALIFIED VOTERS OF THE CITY

7. Consideration was given to an ordinance amending the Charter of the City of Asheville to provide for direct election of the Mayor by all the qualified voters of the City.

Mayor McDevitt said Resolution No. 84-209 relative to the process for election of the Mayor was unanimously adopted by the City Council of the City of Asheville on December 6, 1983, and said Resolution provided that the City Council go on record endorsing the concept of examining the feasibility of the Mayor being elected by the citizens rather than by the present process of being elected by the seven (7) members of the City Council. The City Council has continued to examine the feasibility of the direct election of the Mayor by all of the qualified voters of the City. North Carolina General Statute Section 160A-102 provides that the Council may amend the City Charter by adopting an ordinance pursuant to North Carolina General Statute Section 160A-102 effective only if approved by a vote of the people. It is the sole intent of the members of the Asheville City Council to afford the people of the City of Asheville the opportunity and the right to make the final decision on whether the present method of selecting the Mayor should be continued or whether that method should be changed to provide for the direct election of the Mayor by all of the qualified voters of the City. A public hearing was held on this issue on Monday, September 10, 1984 at 4:00 p.m. in the City Council Chambers.

Mayor McDevitt said members of Council were furnished copies of the ordinance and it would not be read in its entirety.

In response to Councilman Price's questions, stated at the public hearing on September 10, 1984, the City Attorney said according to the North Carolina General Statutes, under the present system and the proposed system, the Mayor could not also hold the position of City Manager. He said there were no clear-cut answers as to the right of the Mayor to vote. He quoted several statutes in connection with the Mayor's voting rights. He said in his opinion, the proposed ordinance should authorize the Mayor to vote on all issues, as required by all members of Council. He said in checking with Mr. David Lawrence, with the Institute of Government, it was suggested that no additional language be included in the ordinance relative to the Mayor's right to vote, and that the Council request the Legislature to clarify this question.

Upon inquiry of Council, Mr. Slawter said in his opinion, if the proposed ordinance is adopted, all section of the Charter of the City of Asheville should be amended where "members of Council" are mentioned to include "the Mayor."

Mayor McDevitt said the next item on the agenda entitled a "Resolution calling for a vote of the people on Ordinance No. 1465 regarding the direct election of the Mayor of the voters would be deleted, due to the failure of Ordinance No. 1465 being read on three readings at today's meeting, and therefore could not be carried out in time to be placed on the ballot on November 6, 1984.

Councilman Price moved to table the second reading of Ordinance No. 1465 indefinitely, and that the matter be referred to the City Council Public Affairs Committee for further study, and that a referendum be held regarding the direct election of the Mayor before May 1, 1985. This motion was seconded by Councilman Boland and carried unanimously.

Corporation Counsel Slawter again reminded Council that if significant changes were made in the proposed ordinance, it would be his opinion that the process should started over describing all specific changes to be made in the Charter.

Mayor McDevitt said members of Council should also consider their priorities such as water, sewer, and storm drainage, those things which Council must address immediately.

Councilman Boland said he felt the Public Affairs Committee should consider this matter as soon as possible since he felt it is a rather important issue.

PUBLIC HEARING SCHEDULED - APPEAL OF DR. MICHAEL G. JUSTICE TO REZONE PROPERTY LOCATED IN BEVERLY HILLS

8. Consideration was given to a motion scheduling a public hearing on the rezoning appeal of Dr. Michael G. Justice, owner of property located in Beverly Hills.

Mayor McDevitt said the Planning and Zoning Commission had voted to recommend denial of Dr. Justice's rezoning request to City Council, and that Dr. Justice has appealed this decision to the City Council.

Councilman Price moved to schedule a public hearing relative to the appeal of Dr. Justice to rezone property located in "Beverly Hills" for September 25, 1984. This motion was seconded by Vice Mayor Bratton and carried unanimously.

RESOLUTION NO. 84-165 - RESOLUTION AUTHORIZING THE MAYOR TO CONSENT TO THE DEMOLITION OF 31 WEST CHESTNUT STREET

9. Consideration was given to a resolution authorizing the Mayor to consent to the demolition of 31 West Chestnut Street.

Mayor McDevitt said The City of Asheville is the fee simple owner of the property located at 31 West Chestnut Street and no outstanding interests exist on this property. This property is in a dilapidated condition and hazardous to the citizens of Asheville. This property is not located in any historic district. The Asheville Fire Department, through its training program, will burn the dwelling at no cost to the City of Asheville. This resolution will authorize the Mayor to sign the necessary consent papers for demolition of the property.

Councilman Bissette said he felt the proposed delay is a political smoke screen obscuring a simple popular vote. He pointed out that Asheville is the only major city in North Carolina where voters do not directly elect a Mayor. He said delaying a referendum until January would cost the City approximately $7,000 as compared to $1,500 in November, and that a referendum in January would discourage voter turnout.

Councilman Frank noted that, in connection with the cost of the election, the Council could pass an ordinance directing that the Mayor be elected by the voters of the City of Asheville without a referendum.

Ralph Bishop spoke in favor of a referendum on the issue in November.

Mr. Fitzgerald Horne agreed with Councilman Bissette's comments stating that the citizens of Asheville should have the opportunity to vote for a Mayor.

Minnie Jones said January is not a good time to hold a referendum.

Renea White said she felt the citizens of Asheville should know about the issue before voting.

Mayor McDevitt said he had serious misgivings about the proposal for direct election of the Mayor since members of Council have so many more important issues to address. He said the concerns that have been raised relative to the proposed ordinance can be addressed by simple amendments. He said he felt the referendum should be held in November since Buncombe County voters will also decide on the November 6 ballot an almost identical issue on whether or not the County Commission Chairman should be an elected office. He said it would be an ideal time to place the City referendum on the ballot. He said he felt it would be in the public interest to place the issue on the November 6 ballot and he would vote against the motion to remove the ordinance from consideration on today°s agenda.

On a voice vote of 3-3, Councilman Boland's motion to postpone action on the ordinance failed with Vice-Mayor Bratton, Mayor McDevitt, and Councilman Bissette voting "no" and Councilman Boland, Councilman Price, and Councilman Frank voting "yes."

Vice-Mayor Bratton moved for the adoption of Ordinance No. 1465. This motion was seconded by Councilman Bissette.

A discussion was held relative to amending the proposed ordinance to clear up any misunderstandings relative to including the Mayor as part of all members of Council.

On a roll call vote of 6-0, Ordinance No. 1465 passed on first reading.

Vice-Mayor Bratton moved to suspend the rules and proceed to the second reading of Ordinance No. 1465. The motion was seconded by Councilman Bissette and failed on a voice vote of 3-3, with Mayor McDevitt, Vice-Mayor Bratton, and Councilman Bissette voting "yes" and Councilman Boland, Councilman Price, and Councilman Frank voting "no."

Mayor McDevitt said, as it now stands, the ordinance will be calendared on next week's agenda for second reading.

RESOLUTION NO. 84-167 - RESOLUTION AUTHORIZING THE MAYOR TO SIGN ON BEHALF OF THE CITY OF ASHEVILLE CHANGE ORDERS WITH PERRY M. ALEXANDER CONSTRUCTION COMPANY FOR THE PROJECT KNOWN AS ASHEVILLE REGIONAL AIRPORT COLLECTION SEWERS

11. Consideration was given to a resolution authorizing the Mayor to sign on behalf of the City of Asheville change orders with Perry M. Alexander Construction Company for the project known as Asheville Regional Airport Collection Sewers.

Mayor McDevitt said the City Council, by Resolution No. 83-123, authorized a contract with Perry M. Alexander Construction Company for the project known as Asheville Regional Airport Collection Sewers. Harry Hendon and Associates, Inc., Engineers for the Project, has requested the execution of a change order in the amount of $2,400.00 to cover the added cost of installing mechanical joint ductile iron pipe in lieu of the push on joint pipe at the bridge over I-26. This resolution will authorize the Mayor to sign any change orders, within the amount budgeted for said work, which might arise during the construction of said project. He said the Capital Project Budget for the Airport Sewer Line has previously been approved.

Mayor McDevitt said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Price, seconded by Councilman Frank, Resolution No. 84-167 was unanimously adopted.

Complete text of Resolution No. 84-167 will be found in Resolution Book No. 15 at page ~~34~~ 38 ✓

RESOLUTION NO. 84-168 - RESOLUTION AUTHORIZING THE FILING OF AN APPLICATION WITH THE DEPARTMENT OF TRANSPORTATION, UNITED STATES OF AMERICA, FOR A GRANT UNDER THE URBAN MASS TRANSPORTATION ACT OF 1964, AS AMENDED

Consideration was given to a resolution authorizing the filing of an application with the Department of Transportation, United States of America, for a grant under the Urban Mass Transportation Act of 1964, as amended.

Carl Ownbey of the Asheville Transit Authority read the resolution. He said this is an annual submission of an application under Section 8 and 9-A for a technical studies grant. He said the breakdown on the funding for this grant would be eighty percent (80%) Federal, ten percent (10%) State, and ten percent (10%) local.

Upon motion of Councilman Price, seconded by Councilman Frank, Resolution No. 84-168 was unanimously adopted.

Complete text of Resolution No. 84-168 will be found in Resolution Book No. 15 at pages ~~35-36~~. 39-40 ✓

Mayor McDevitt said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Price, seconded by Councilman Bissette, Resolution No. 84-165 was unanimously adopted.

Complete text of Resolution No. 84-165 will be found in Resolution Book No. 15 at page 32.36 9K

RESOLUTION NO. 84-166 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE ON BEHALF OF THE CITY OF ASHEVILLE AN AGREEMENT BETWEEN THE CITY AND B & R SYSTEMS, INC. FOR THE RE-ROOFING OF CITY HALL

10. Consideration was given to a resolution authorizing the Mayor to execute on behalf of the City of Asheville an agreement between the City and B & R Systems, Inc. for the re-roofing of City Hall.

Mayor McDevitt said the City Hall roofing system has deteriorated, been subjected to repeated patching, is continuing to leak with consequent damage to the building and its contents. Bids were opened on this project on September 4, 1984. It has been recommended that B & R Systems, Inc. be accepted for the Base Bid and Alternate No. 1 in the amount of $71,418.00. He said adequate funding is available using a combination of the remaining $67,000 in funding from the City Hall Roof Project plus surplus funding from the Civic Center Project to cover this contract.

Tom Tarrant, City Engineering Coordinator, presented the following bid tabulation:

BIDDER	BASE BID	ALTERNATE ADDITIONAL WATERPROOFING	TOTAL
B & R Systems, Inc.	$64,000.00	$7,418.00	$ 71,418.00
Stroup Sheet Metal Works, Inc.	$96,561.00	$7,310.00	$103,871.00

Mr. Tarrant said the City Engineering Division recommends that $90,000 be allocated for the project to cover contingencies and change orders. He said he would request that the Director of Audit & Budget submit a budget amendment for contingency funds to cover the change orders for Council's consideration at next week's Council Meeting.

Mayor McDevitt said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Boland, seconded by Councilman Price, Resolution No. 84-166 was unanimously adopted.

Complete text of Resolution No. 84-166 will be found in Resolution Book No. 15 at page 33.37 9K

Complete text of Resolution No. 84-170 will be found in Resolution Book No. 15 at page 38. 42

RESOLUTION NO. 84-171 - RESOLUTION AUTHORIZING THE CLOSING OF PHIFER AND BLANTON STREET FOR A CHRISTIAN CARNIVAL GIVEN BY BROWN TEMPLE CHRISTIAN METHODIST EPISCOPAL CHURCH

Consideration was given to a resolution authorizing the closing of Phifer and Blanton Street for a Christian Carnival given by Brown Temple Christian Methodist Episcopal Church.

Mayor McDevitt read the resolution, and said this closing had been requested by Reverend Lynwood Leverette, Sr. He said Phifer Street, from S. French Broad Avenue up to 102 Blanton Street, would be closed on September 15, 1984 from 9:00 a.m. to 8:00 p.m.

Upon motion of Councilman Bissette, seconded by Councilman Boland, Resolution No. 84-171 was unanimously adopted.

Complete text of Resolution No. 84-171 will be found in Resolution Book No. 15 at page 39. 43

CLAIMS - FLETCHER CARTER (SANITATION), PAULA HENSLEY (STREETS), PAT FARLOW (WATER) NELLIE ELLIOTT (WATER)

The City Manager presented claims received from Fletcher Carter (Sanitation), Paula Hensley (Streets), Pat Farlow (Water), and Nellie Elliott (Water).

Mayor McDevitt referred the claims to the Corporation Counsel for investigation and recommendation.

PRESENTATION OF LETTER FROM COUNCILMAN GORDON MYERS

Mayor McDevitt read the following letter from Councilman Myers.

" September 10, 1984

Mayor Larry McDevitt
and Members of City Council
City of Asheville
Post Office Box 7148
Asheville, North Carolina 28807

Dear Mayor and Members of City Council:

I would again like to express my regrets for having been out of town on numerous occasions over the last two months and having missed a good portion of the Council Meetings. This has been caused by two vacations with my family and unavoidable business meetings which were held out of town. I have continued to remain in contact on a weekly basis with the Mayor concerning the city's on-going business and the results of the Council Meetings.

RESOLUTION NO. 84-169 - RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT WITH THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION IN SUPPORT OF THE TECHNICAL STUDIES PROJECT

Consideration was given to a resolution authorizing the Mayor to enter into a contract with the North Carolina Department of Transportation in support of the Technical Studies Project.

Carl Ownbey of the Asheville Transit Authority read the resolution. He said this resolution will request the North Carolina Department of Transportation to provide fifty percent (50%) of the non-federal cost of implementing specific items of the 1984-85 Asheville Urban Area Unified Work Program at a total cost of Thirty Two Thousand Dollars ($32,000) of which the non-federal cost amounts to Six Thousand Four Hundred Dollars ($6,400).

Upon motion of Councilman Price, seconded by Councilman Frank, Resolution No. 84-169 was unanimously adopted.

Complete text of Resolution No. 84-169 will be found in Resolution Book No. 15 at page 37.

RESOLUTION NO. 84-170 - RESOLUTION AUTHORIZING THE MAYOR TO SIGN ON BEHALF OF THE CITY OF ASHEVILLE A CONTRACT WITH A.P.A.C.-CAROLINA, INC., FOR THE PROJECT KNOWN AS THE 1984-85 PAVING PROGRAM PROJECT

Consideration was given to a resolution authorizing the Mayor to sign on behalf of the City of Asheville a contract with A.P.A.C.-Carolina, Inc. for the project known as the 1984-85 Paving Program Project.

Tom Tarrant, City Engineering Coordinator, presented the following bid tabulation:

BIDDER	BASE BID	ALTERNATE CEMETERY ROADS	TOTAL
A.P.A.C.-Carolina, Inc.	$593,315.00	$44,960.00	$638,275.00
Paving Enterprises	$683,842.97	$50,024.50	$738,867.47
Asheville Paving	$691,504.19	$50,403.60	$741,907.79

Mr. Tarrant said the apparent low bidder for the base bid and the alternate was A.P.A.C.-Carolina, Inc. in the amount of $638,275.00, and this bid is under the City Engineering Division's estimate of $746,000.00. He said he would recommend award of the bid to A.P.A.C.-Carolina, Inc.

Council indicated that they would be willing to allocate the additional funds necessary to include paving of cemetery roads.

Upon inquiry of Mayor McDevitt, Mr. Tarrant said change orders would be anticipated in a construction project of this size, and that he would request that the Director of Audit & Budget submit a budget amendment for contingency funds to cover the change orders for Council's consideration at next week's Council Meeting.

Councilman Frank moved to approved Resolution No. 84-170 to include Alternate #1 (paving of Cemetery Roads) in the amount of $638,275. This motion was seconded by Councilman Price and carried unanimously.

Tuesday - September 18, 1984 - 4:00 p.m.

Regular Meeting

Present: Vice-Mayor Wilhelmina Bratton; Councilmen Mary Lloyd Frank, Norma T. Price, Gordon Myers, and Louis Bissette; Corporation Counsel William F. Slawter; Deputy City Clerk Carol Hensley.

Absent: Mayor Larry McDevitt, Councilman Walter Boland, Acting City Manager William F. Wolcott, Jr.

INVOCATION

The invocation was given by Vice-Mayor Wilhelmina Bratton.

APPROVAL OF THE MINUTES

1. Approval of the minutes of September 11, 1984 meeting.

Upon motion of Councilman Price, seconded by Councilman Frank, the minutes of the September 11, 1984 meeting were unanimously approved as submitted.

PROCLAMATION - "CONSTITUTION WEEK" - September 17-23, 1984

2. Vice-Mayor Bratton read the proclamation proclaiming the week of September 17-23, 1984 as "Constitution Week."

Vice-Mayor Bratton presented the proclamation to Mrs. Robin Hendon and Mrs. Drake.

Vice-Mayor Bratton said Mayor McDevitt and Councilman Boland are out of town on City business.

ORDINANCE NO. 1464 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED, REZONING PROPERTY LOCATED ON SWANNANOA RIVER ROAD

3. Consideration was given to the second reading of Ordinance No. 1464, an ordinance amending Ordinance No. 322, known as "An ordinance providing for the zoning of the City of Asheville," as amended, rezoning property located on Swannanoa River Road.

Vice-Mayor Bratton said this ordinance was previously read on first reading would not be reread in its entirety unless there was a specific request to do so.

On a roll call vote of 5-0, Ordinance No. 1464 passed on second reading.

I have had a long-standing commitment to take a trip with my wife during the week of September 10th, but look forward to seeing you all next Tuesday.

Very truly yours,

/s/ Gordon S. Myers

Gordon S. Myers
Councilman

GSM:cah "

ADJOURNMENT

Councilman Boland moved to adjourn the meeting at 7:30 p.m. This motion was seconded by Councilman Price and carried unanimously.

MAYOR

CITY CLERK

CONSENT AGENDA

6. Consideration of was given to a motion approving the consent agenda.

Vice Mayor Bratton said the following items are of a routine nature and they have been previously reviewed by the members of the City Council. Therefore, by unanimous vote to approve these items, the City Council may, pursuant to the procedures established in Ordinance No. 1008, adopt all of the items with one motion without the full reading and/or separate motion adopting each individual item. Upon the request of a citizen, a member of the City Council, and/or a member of the City staff, any single item scheduled for approval on the consent agenda may be considered separately.

A. Resolution No. 84-174 - Resolution of intent to close the unopened portion of Lyman Street and calling a public hearing on the matter for October 23, 1984.

HIGHLIGHTS: The City of Asheville has received a petition from the Asheville City Board of Education and the Housing Authority of the City of Asheville, adjoining property owners, to close the unopened portion of Lyman Street. The adoption of this resolution will schedule a public hearing on this matter for October 23, 1984.

FISCAL IMPACT: None

Complete text of Resolution No. 84-174 will be found in Resolution Book No. 15, at pages ~~42-43~~. 46

B. Resolution No. 84-175 - Resolution of intent to close the unopened portion of Dewitt Street and calling a public hearing on the matter for October 23, 1984.

HIGHLIGHTS: The City of Asheville has received a petition from the Asheville City Board of Education, adjoining property owner, to close the unopened portion of Dewitt Street. The adoption of this resolution will schedule a public hearing on this matter for October 23, 1984.

FISCAL IMPACT: None

Complete text of Resolution No. 84-175 will be found in Resolution Book No. 15, at pages ~~44-45~~. 47

C. Motion to schedule an appeal hearing on October 16, 1984, in the matter of Melvin C. Walsh, Jr.'s request for line-of-duty disability retirement.

HIGHLIGHTS: Melvin C. Walsh, Jr. is appealing the decision of the Board of Examiners and the decision of the Board of Trustees of the Asheville Policemen's Pension and Disability Fund to the Asheville City Council for in-line-of-duty disability retirement.

FISCAL IMPACT: None

D. Motion to schedule a public hearing to rezone property located on Crayton Road from R-3 Residential District to LI Light Industrial District

RESOLUTION NO. 84-172 - RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF ASHEVILLE TO ENTER INTO AN AGREEMENT WITH THE BUNCOMBE COUNTY DEPARTMENT OF SOCIAL SERVICES TO PROVIDE WORK SITE EXPERIENCE FOR PARTICIPANTS IN THE BUNCOMBE COUNTY COMMUNITY WORK PROGRAM

4. Consideration was given to a resolution authorizing the Mayor of the City of Asheville to enter into an agreement with the Buncombe County Department of Social Services to provide work site experience for participants in the Buncombe County Community Work Program.

Vice-Mayor Bratton said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Vice-Mayor Bratton said the Buncombe County Department of Social Services has established a program to provide work experience to able-bodied AFDC recipients to develop or maintain basic work skills and to develop a recent employment and job reference. Through this Community Work Experience Program, various public and private non-profit agencies have been requested to serve as Work Site sponsors for this Community Work Experience Program. The City of Asheville can benefit from work performed by participants in this program while helping recipients enhance their job skills and employablity.

Upon motion of Councilman Frank, seconded by Councilman Myers, Resolution No. 84-172 was unanimously adopted.

Complete text of Resolution No. 84-172 will be found in Resolution Book No. 15 at page ~~40~~ 44 .

RESOLUTION NO. 84-173 - RESOLUTION REQUESTING THE STATE OF NORTH CAROLINA TO FURNISH PROPER DIRECTIONAL SIGNS OF APPROPRIATE SIZE TO DESIGNATE THE CAMPUS OF UNC-A

5. Consideration was given to a resolution requesting the State of North Carolina to furnish proper directional signs of appropriate size to designate the campus of UNC-A.

Vice-Mayor Bratton said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Bissette, seconded by Councilman Price, Resolution No. 84-173 was unanimously adopted.

Complete text of Resolution No. 84-173 will be found in Resolution Book No. 15 at page ~~41~~ 45 .

ORDINANCE NO. 1466 - BUDGET ORDINANCE AMENDMENT TO ESTABLISH FISCAL 1984-85 STREET PAVING PROGRAM

Consideration was given to the Budget Ordinance amendment to establish Fiscal 1984-85 Street Paving Program.

Bob Wurst, Budget/Audit Director, presented the Budget Ordinance amendment to establish the Fiscal 1984-85 Street Paving program at a funding level of $638,000 plus ten percent contingency.

Councilman Price moved for the adoption of Ordinance No. 1466. This motion was seconded by Councilman Frank.

On a roll call vote of 5-0, Ordinance No. 1466 passed on first and final reading.

Complete text of Ordinance No. 1466 will be found in Ordinance Book No. 10 at page ~~216.~~ 180

ORDINANCE NO. 1467 - BUDGET ORDINANCE AMENDMENT TO REALLOCATE SURPLUS FUNDS FOR ROOF PROJECTS

Consideration was given to a Budget Ordinance amendment to reallocate surplus funds for roof projects.

Bob Wurst, Audit/Budget Director presented the Budget Ordinance amendment to reallocate surplus funds for the fire station number eight roof and the City Hall roof. This amendment will add $71,000 appropriation for the fire station number eight roof and an additional $20,000 for the City Hall roof.

Councilman Price moved for the adoption of Ordinance No. 1467. This motion was seconded by Councilman Myers.

On a roll call vote of 5-0, Ordinance No. 1467 passed on first and final reading.

Complete text of Ordinance No. 1467 will be found in Ordinance Book No. 10 at page ~~217.~~ 181

CLAIMS - SCOTT GRIFFIN (WATER)

The City Clerk presented a claim received from Scott Griffin.

Vice-Mayor Bratton referred the claim to the Corporation Counsel for investigation and recommendation.

PROCLAMATION - "ASHEVILLE SYMPHONY MONTH" - SEPTEMBER, 1984

Vice-Mayor Bratton announced that Mayor McDevitt had proclaimed the month of September as "Asheville Symphony Month."

(property owned by the Crayton Estate) for October 9, 1984.

HIGHLIGHTS: The Asheville Planning and Zoning Commission at its meeting on September 5th considered the rezoning of Ward 7, Sheet 15, Lots 85, 85-1/4, and 229 from R-3 Residential District to LI Light Industrial District. Staff pointed out that this property on Crayton Road has been underutilized for some time and there exists a potential at this time for use of the now vacant land. Also, the Asheville Chamber of Commerce lists this property as potential industrial property. After discussion, the Commission voted to recommend approval to City Council that Ward 7, Sheet 15, Lots 85, 229, and a portion of Lot 85-1/4 be rezoned to LI Light Industrial District. The Commission also recommends that a 40' buffer be provided and that a "No Left Turn" sign be placed on Crayton Road at the exit from the property.

FISCAL IMPACT: None

E. Motion to schedule a public hearing to rezone property located on Haywood Road from R-3 Residential District to CS Commercial Service District (property owned by R & R Associates) for October 9, 1984.

HIGHLIGHTS: The Asheville Planning and Zoning Commission at its meeting on September 5th considered the rezoning of Ward 6, Sheet 1, Lot 291 from R-3 Residential District to CS Commercial Service District. After discussion, the Commission voted to recommend approval of the rezoning to City Council.

FISCAL IMPACT: None

F. Motion scheduling a public hearing relative to the filing of an application with the Urban Mass Transportation Administration for Section 9A, Technical Studies Planning Grant for October 16, 1984.

HIGHLIGHTS: This public hearing will afford the citizens of Asheville an opportunity to express their opinion relative to the filing of an application for a Technical Studies Grant.

FISCAL IMPACT: The total amount of grant funds being applied for is $7,000, funded 80% by the federal, 10% by the state, and 10% local funding.

Upon motion of Councilman Frank, seconded by Councilman Myers, the consent agenda was unanimously approved.

SCHEDULING PUBLIC HEARING - HAZELWOOD SUBDIVISION - NORTH LOUISIANA AVENUE

Councilman Price moved to schedule a public hearing relative to the Hazelwood Subdivision - Phase I to be located on North Louisiana Avenue for October 2, 1984. This motion was seconded by Councilman Bissette and carried unanimously.

David Warren with the Asheville Fire Department said he felt the proposed policy is another tool to fire someone if a department head did not particularly like that employee. He also questioned the transfer of employees to lower pay grades in case of a layoff.

Several Council members emphasized to the employees that no layoffs are contemplated or ever being considered.

Sam Graves, Director of Management Services, said this would only be a policy, and at the time a layoff is needed, a plan would be implemented which would address the questions of fringe benefits, sick leave, vacation, retirement, and seniority.

Several of the employees requested that Council take no action on the policy until a plan is adopted.

Several of the employees requested that better communications be given to employees when actions such as this are taken on such issues.

Vice-Mayor Bratton closed the public hearing at 6:15 p.m.

ORDINANCE NO. 1468 - BUDGET ORDINANCE AMENDMENT TO PROVIDE FUNDS FOR A WORKERS' COMPENSATION SETTLEMENT (WILLIAM R. SWEARNGAN - FINANCE DEPARTMENT)

Consideration was given to a Budget Ordinance amendment to provide funds in the amount of $6,566.00 in the Finance Department Budget for a Workers' Compensation settlement for William R. Swearngan.

Councilman Price moved for the adoption of Ordinance No. 1468. This motion was seconded by Councilman Bissette.

On a roll call vote of 5-0, Ordinance No. 1468 passed on first and final reading.

Complete text of Ordinance No. 1468 will be found in Ordinance Book No. **10** at page ~~218~~. 182

RESOLUTION NO. 84-176 - RESOLUTION AUTHORIZING THE MAYOR TO SIGN AN AGREEMENT FOR PERMANENT PARTIAL DISABILITY FOR WILLIAM R. SWEARNGAN PURSUANT TO A NORTH CAROLINA WORKERS' COMPENSATION ACT

Consideration was given to a resolution authorizing the Mayor to sign an agreement for permanent partial disability for William R. Swearngan pursuant to the North Carolina Workers' Compensation Act.

Vice-Mayor Bratton presented the resolution stating that William R. Swearngan sustained a compensable injury under the North Carolina Workers' Compensation Act while employed by the City of Asheville on November 1, 1982. As a result of these injuries the employee sustained a permanent partial disability of 20% to his left foot. Pursuant to Chapter 97 of the North Carolina General Statutes the 20% permanent partial disability is equal to $6,566.40.

PROCLAMATION - "CLEANUP LITTER WEEK" - SEPTEMBER 16-22, 1984 - "YOUTH INVOLVEMENT DAY" - SEPTEMBER 22, 1984

Vice-Mayor Bratton announced that Mayor McDevitt had proclaimed the week of September 16-22, 1984 as "Cleanup Litter Week" and September 22, 1984 as "Youth Involvement Day."

PROCLAMATION - "PEACE DAY" - SUNDAY, OCTOBER 7, 1984

Vice-Mayor Bratton said Mayor McDevitt had proclaimed Sunday, October 7, 1984 as "Peace Day."

RALPH BISHOP - COMMENTS RELATIVE TO ELECTION OF MAYOR

Ralph Bishop again spoke to members of Council relative to his desire to have the Mayor elected by the qualified voters of the City of Asheville. He said the City Manager-type form of government is not good for the City of Asheville.

COUNCIL RECESS

Councilman Price moved to recess the Council meeting until 5:15 p.m. This motion was seconded by Councilman Bissette and carried unanimously.

PUBLIC HEARING - PROPOSED CIVIL SERVICE RULE CHANGE - LAYOFF POLICY

Vice-Mayor Bratton said this public hearing is being held to provide the employees of the Classified Service and the citizens of Asheville an opportunity to be heard prior to the City Council adopting and/or approving a proposed Civil Service rule regarding layoffs.

Vice-Mayor Bratton read the proposed layoff policy. She said, however, that there is no intent by the Asheville City Council for a layoff in the near future. She said this policy is to be included in the Personnel Manual in case of an emergency.

Vice-Mayor Bratton opened the public hearing at 5:20 p.m.

Bill Wilmer of the Street Department said he felt it was unreasonable for City Council to formulate a layoff policy to be used later. He also questioned what would happen to fringe benefits, hospitalization, sick leave, vacation leave, and seniority, if someone is laid off from the City of Asheville. He also questioned the fairness in transferring an employee to another department at a lower pay grade. He said he felt the policy would allow management to lay off employees with whom they have personality conflicts. He said the employees also need to know the number of weeks notice they would receive prior to getting laid off.

Bruce Ponder with Water Maintenance said he had been working with the City of Asheville for five months. He said he took a cut in wages in order to work for the City because they normally do not have layoffs. He said Council should increase employees' wages to compensate for the fear of being laid off. He said if Council has no need for a layoff then why have such a policy.

Tuesday - September 25, 1984 - 4:00 p.m.

Regular Meeting

Present: Mayor Larry McDevitt, Presiding; Vice-Mayor Wilhelmina Bratton; Councilmen Mary Lloyd Frank, Norma T. Price, Gordon Myers, Walter Boland; and Louis Bissette; Corporation Counsel William F. Slawter; Acting City Manager William F. Wolcott, Jr.; Deputy City Clerk Carol Hensley.

Absent: None

INVOCATION

The invocation was given by Mayor Larry McDevitt.

APPROVAL OF THE MINUTES

1. Approval of the minutes of September 18, 1984 meeting.

Mayor McDevitt announced the approval of the minutes of the September 18, 1984 meeting as submitted.

RECOGNITION OF TIM DAVIS - CIVIC CENTER EMPLOYEE

2. Mayor McDevitt said on Sunday, July 29, while working a set-up change, Tim Davis, (a Civic Center laborer) found and turned over a wallet lost that day at the wrestling match. After checking the contents, $300 was found in the wallet. On Monday morning, the owner called and identified the wallet and its contents. They were elated and extremely grateful. Tim Davis has been employed by the City since September 14, 1981.

Mayor McDevitt recognized Mr. Davis and thanked him for his good deed and honesty in turning over the wallet to the Civic Center manager. He said this action not only reflects Mr. Davis' honesty, but also reflects upon the City of Asheville.

PROCLAMATION - "ADULT DAY CARE CENTER WEEK" - WEEK OF SEPTEMBER 23, 1984

Mayor McDevitt read a proclamation proclaiming the week of September 23, 1984, as "Adult Day Care Center Week."

Mayor McDevitt presented the proclamation to Mary C. Lewis, Program Director of the Adult Day Care Center in the Allen Center.

Mrs. Lewis detailed the functions of the "Elders Living Fully," Adult Day Center.

Upon motion of Councilman Price, seconded by Councilman Frank, Resolution No. 84-176 was unanimously adopted.

Complete text of Resolution No. 84-176 will be found in Resolution Book No. 15 at page ~~46~~ 48 ½

ADJOURNMENT

Upon motion of Councilman Bissette, seconded by Councilman Myers, the meeting adjourned at 6:30 p.m.

Larry McDavid
MAYOR

William F. Valentine
CITY CLERK

Veri Emrick, Director of Planning, said this rezoning petition was first presented in November, 1983. However, deed restrictions were in force and the Planning and Zoning Commission decided to wait until the deed restrictions had lapsed before considering this rezoning request. He said the Asheville Planning and Zoning Commission meeting held August 8, 1984 considered the petition of Dr. Michael Justice that Ward 8, Sheet 35, Lots 29, 24-27, 68, 69, and Ward 8, Sheet 19, Lots 107, 106, 83, 105, 82, 81, 80, and 79 be rezoned from R-1 Residential District to R-4 Residential District, the property being located on Tunnel Road. After review and discussion, the Commission voted to recommend that the petition be denied and the property remain as it is now zoned.

Mr. Emrick said the following Finding of Fact by Chairman Frue and Motion" was made at the Planning and Zoning meeting.

"1. That the proposed rezoning request constitutes spot zoning and this should be looked at by City Council if an appeal is taken to City Council and an opinion should be obtained by the City Attorney as to whether or not this particular request constitutes spot zoning.

2. We have considered and read the restrictive convenants as same porport to effect this particular property the locus in quo and we inspected and examined it for the purpose of determining whether or not it was proper for us to hear the rezoning request. It is the opinion of the Planning and Zoning Commission that the restrictions have, in deed, expired.

Those are the two findings that I would suggest to the Commission.

3. We did not consider the proposed specific use of the land since this would be contract zoning.

4. If the restrictions have elapsed, then is rezoning from R-1 Residential District to R-4 Residential District appropriate.

Chairman Frue then entertained a motion for denial, incorporating these findings. Motion was moved, seconded and carried with Bill Ashley disqualifying himself from voting since he had worked on the map.

Corporation Counsel Slawter cited several reasons for his opinion that the rezoning would not be "spot zoning."

Mr. Emrick presented an aerial photo showing the property requested to be rezoned.

Mr. Emrick said the staff of the Planning and Zoning Commission recommended approval of the petition for the following reasons:

1) the properties abut U.S. 70, a major thoroughfare; 2) said properties also abut commercial properties; and 3) by restricting the zoning to R-4 Residential District rather than the commercial designation, there is a measure of control of uses allowable and a measure of protection for the adjoining residential properties. He said the staff feels that this area will eventually turn commercial.

RESOLUTION NO. 84-177 - RESOLUTION OF APPRECIATION TO MR. WILLIAM E. PFEIFFER FOR OUTSTANDING SERVICE TO THE CITIZENS OF ASHEVILLE AS CHAIRMAN OF THE PARKS AND RECREATION ADVISORY BOARD

Consideration was given to a resolution of appreciation to Mr. William E. Pfeiffer for outstanding service to the citizens of Asheville as Chairman of the Parks and Recreation Advisory Board.

Mayor McDevitt read the resolution stating that Mr. Pfeiffer has served on the City of Asheville Parks and Recreation Advisory Board since November 24, 1969, and served as Chairman for the past five years. He said Mr. Pfeiffer is resigning as Chairman of the Parks and Recreation Advisory Board because he is relocating to another state in order to pursue a new private business venture.

Upon motion of Councilman Price, seconded by Councilman Bissette, Resolution No. 84-177 was unanimously adopted.

Mayor McDevitt presented the resolution to Mr. Pfeiffer.

Complete text of Resolution No. 84-177 will be found in Resolution Book No. 15 at page ~~45~~ 49 ℛ

RESOLUTION NO. 84-178 - RESOLUTION OF APPRECIATION TO ACTING CITY MANAGER WILLIAM F. WOLCOTT, JR.

Consideration was given to a resolution of appreciation to Acting City Manager William F. Wolcott, Jr.

Mayor McDevitt read the resolution stating that Mr. Wolcott has served as Acting City Manager since March 1, 1984, and Council wanted to personally thank him for the outstanding job.

Upon motion of Councilman Boland, seconded by Councilman Frank, Resolution No. 84-178 was unanimously adopted.

Complete text of Resolution No. 84-178 will be found in Resolution Book No. 15 at page ~~46~~ 50 ℛ

PUBLIC HEARING - REZONING PROPERTY LOCATED IN BEVERLY HILLS

3. A public hearing was held relative to rezoning property located in Beverly Hills, requested by Dr. Michael G. Justice.

Mayor McDevitt said on Wednesday, August 8, 1984, the Asheville Planning and Zoning Commission voted to recommend to City Council that the rezoning of Ward 8, Sheet 35, Lots 29, 24-27, 68, 69, Ward 8, Sheet 19, Lots 107, 106, 83, 105, 82, 81, 80 and 79 from R-1 Residential District to R-4 Residential District be denied. Dr. Justice has appealed the decision of the Planning and Zoning Commission to the Asheville City Council.

Mayor McDevitt opened the public hearing at 4:37 p.m.

even if it was considered spot zoning, Council would be allowed to rezone the property if the rezoning request is reasonable. In rebuttal to the protest of the rezoning outlined in the "protest against change in zoning." Mr. Rowe pointed out that the Planning and Zoning staff had recommended approval of the rezoning request. He said this property requested to be rezoned is a buffer for residents living on Fairway Drive. He said the plans for the proposed dentist office calls for "more than adequate" buffering protection to the homes backing up to the property. He said the homeowners are being unfair by asking the petitioners not to develop the property because it provides a buffer zone between their homes and Tunnel Road. He said, essentially the residents are saying, they want to keep the buffer for themselves and asking us not to use the property for its highest and best use. He said the City of Asheville needs a family dental practice in the East Asheville area.

Mr. Rowe said many of the property owners requesting the rezoning were unable to attend the Council meeting for various reasons. He read a letter from Anita and Gus Johnson, one of the petitioners for the rezoning, speaking in favor of the rezoning.

Upon inquiry of Mayor McDevitt, Mr. Emrick said if the property is zoned R-3 Residential District and a professional office allowed, only 2,000 square feet office building could be built on the property. He said the Zoning Board of Adjustments could grant variances to Dr. Justice.

A discussion was held relative to restrictions in the R-3 zoning classification.

Ed Harrell, 36 Fairway Drive, spoke in opposition to the rezoning. He stated that Dr. Justice purchased the property knowing that it was zoned R-1 Residential District. He questioned Dr. Justice obtaining an architect and a surveyor who were also members of the Planning and Zoning Commission. He disagreed with the Corporation Counsel that this rezoning request is not "spot zoning." He said the property has always had restrictive covenants prior to July 1, 1984. He said the residential area should be protected by the R-1 zoning classification. He said the property values would decline if offices are allowed in the area. He requested that Council deny the request for the rezoning.

Mr. Mike Moody, 32 Fairway Drive, also spoke in opposition to the rezoning. He said Dr. Justice presently has an attractive office building located on Swannanoa River Road. He said the houses presently facing Tunnel Road are well kept and in keeping with the character of the neighborhood. He said the property requested to be rezoned is joined on three sides by R-1 Residential District. He said, in his opinion, the restrictive covenants in the area had not elasped. He addressed the size of the proposed dental office compared to the size of homes in the area. He said the proposed dental office is a large building for this area and is not in keeping with the character of the neighborhood. He said he felt the R-4 zoning classification is a stepping stone to commercial development. He said he thought when he purchased his property it would be protected by it being an old established neighborhood, being in a stable environment, with a R-1 zoning classification and restrictive covenants.

Mr. Emrick also noted that the City Clerk's office received a "protest against the change in zoning." He said the Planning and Zoning staff reviewed the petition protesting the rezoning and found the petition to be valid, containing signatures of at least 20% of the surrounding property owners, which would require a three-fourths vote of Council in order to change the zoning or six (6) affirmative votes of Council to change the zoning.

Dr. Michael Justice, petitioner for the rezoning, said the rezoning is requested for a potential site for a dentist office. He said he felt this location would be ideal for a neighborhood dental practice which would be convenient to all residents in East Asheville. He said he was only one of 11 property owners requesting that the property be rezoned. He said he felt the rezoning request is reasonable, and requested Council's approval on the rezoning.

John Cort, architect for the proposed dental office, said he did not feel the rezoning or the construction of the dental office would be out of character with the neighborhood. He said careful planning of the landscaping would provide a buffer zone between the office and neighboring properties, and that the design of the building would fit well with the residential character of the neighborhood. He said the property is presently a wooded area and parking would be provided in the rear of the building. He said he did not feel this property is suitable to remain zoned R-1 Residential District because the property fronts on a five-lane highway and is not appropriate for residential development and if it is not developed as an office, it will never be used. He said the present lots in the area requested to be rezoned do not conform to the R-1 Residential District zoning. He said R-4 Residential District is more compatible with the present facilities surrounding the property. He said this is the only area on a major thoroughfare, through Asheville, that is zoned R-1 Residential District.

Upon inquiry of Councilman Frank, Mr. Cort said he did not feel a R-3 District would be feasible, due to the fact, that the proposed dental office would have to be a conditional use and no more than 2,000 sq. ft. of office space could be used. He said the developer would have to request two variances from the Zoning Board of Adjustments in order to make the property useful.

Gary Rowe, attorney for Dr. Justice, presented members of Council with a map showing the location of the property in question. He said this is the only location on the east-west thoroughfare in Asheville that has a R-1 zoning designation. He said he had questions relative to how the 20% protest was calculated, but would concede to Mr. Emrick's calculations.

Mr. Emrick informed Mr. Rowe that the 100 ft. designation was considered across Tunnel Road.

Mr. Rowe said, in his opinion, the allowable uses in the R-4 Residential District are consistent with the neighborhood. He said all the lots requested to be rezoned do not presently conform to lot sizes required in the R-1, R-2, or R-3 zoning designations. He said Council must encourage the most comprehensive land use in the area. He said he agreed with the Corporation Counsel that the rezoning would not be "spot zoning." However,

RESOLUTION NO. 84-179 - RESOLUTION AUTHORIZING THE HOUSING AUTHORITY OF THE CITY OF ASHEVILLE TO PROCEED WITH IMPLEMENTATION OF THE REDEVELOPMENT PLAN FOR THE PACK PLAZA REDEVELOPMENT PROJECT

4. Consideration was given to a resolution authorizing the Housing Authority of the City of Asheville to proceed with implementation of the redevelopment plan for the Pack Plaza Redevelopment Project.

Mayor McDevitt said in order to carry out the Pack Plaza Redevelopment Project, it is necessary to authorize the Asheville Housing Authority to proceed with implementation of the Redevelopment Plan. The fiscal impact will be affected by the agreement with the developers in connection with land acquistion and relocation assistance.

Upon motion of Councilman Price, seconded by Vice-Mayor Bratton, Resolution No. 84-179 was unanimously adopted.

Complete text of Resolution No. 84-179 will be found in Resolution Book No. 15 at page 47.51

RESOLUTION NO. 84-180 - RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF ASHEVILLE TO EXECUTE AN AMENDMENT TO THE DECEMBER 20, 1983, AGREEMENT BY AND BETWEEN THE CITY OF ASHEVILLE AND HOUSING AUTHORITY OF THE CITY OF ASHEVILLE

5. Consideration was given to a resolution authorizing the Mayor of the City of Asheville to execute an amendment to the December 20, 1983, agreement by and between the City of Asheville and the Housing Authority of the City of Asheville.

Mayor McDevitt said this proposed amendment to the agreement with the Housing Authority of the City of Asheville will provide funding for the implementation of the redevelopment plan for the Pack Plaza Redevelopment Project. The fiscal impact will be affected by the agreement with the developers in connection with land acquisition and relocation assistance.

Upon motion of Councilman Bissette, seconded by Councilman Price, Resolution No. 84-180 was unanimously adopted.

Complete text of Resolution No. 84-180 will be found in Resolution Book No. 15 at page 48.52

RESOLUTION NO. 84-181 - RESOLUTION AUTHORIZING THE MAYOR ON BEHALF OF THE CITY OF ASHEVILLE TO EXECUTE A MEMORANDUM OF UNDERSTANDING BY AND AMONG NCNB COMMUNITY DEVELOPMENT CORPORATION, THE CITY OF ASHEVILLE AND THE COUNTY OF BUNCOMBE

6. Consideration was given to a resolution authorizing the Mayor on behalf of the City of Asheville to execute a Memorandum of Understanding by and among NCNB Community Development Corporation, the City of Asheville and the County of Buncombe.

Bill Earley, 68 Fairway Drive, also spoke in opposition to the rezoning citing the same reasons as Mr. Moody and Mr. Harrell as his reasons for opposition. He said Council, nor anyone else, could promise what uses would eventually move into the R-4 zoning classification. He said Council should not just consider the present use for this property, but how the R-4 zone could be used as a stepping stone to other commercial uses. He said he felt this rezoning would change the character of the neighborhood.

Bob Pitts, Attorney representing the Beverly Hills Homeowners Association, spoke in opposition to the rezoning. He said the Beverly Hills subdivision is a well-preserved, stable community and should not be rezoned to R-4 which would eventually allow commercial uses. He said the "protest against change in zoning" was obtained with only enough signatures to provide for a 20% protest requiring a three-fourths vote of Council. He said he felt many other signatures opposing the zoning could be obtained. He disagreed with the Corporation Counsel that this would not be "spot zoning." He said the Beverly Hills subdivision is a large neighborhood compared to the 14 lots requested to be rezoned. He said he felt the rezoning would affect the economy of the neighborhood. He said the properties requested to be rezoned would increase in value, and the properties on Fairway adjoining the property would decrease in value. He said he felt the restrictive covenants are still in effect.

A resident of 22 Fairway Drive requested that Council take the advice of the Planning and Zoning Commission to deny the request for rezoning.

Allan Hall, a resident in the area, also spoke in opposition to the rezoning stating that he felt this would be a step toward commercial development.

Ron Coleman spoke in support of the rezoning.

Upon inquiry of Councilman Price, Mr. Emrick said the Zoning Ordinance does not address the hours of limitation on a business.

Mayor McDevitt said he did not think Council should consider the proposed use of the property in considering the rezoning, but should consider the request for R-4 Residential District.

Mayor McDevitt closed the public hearing at 6:28 p.m.

Mayor McDevitt said members of Council were furnished copies of the ordinance and it would not be read in its entirety.

Councilman Boland moved that action on the ordinance be tabled until October 2, 1984, due to the massive amount of information received during the public hearing. He said he felt Council needed time to consider the information and to pursue unanswered questions. This motion was seconded by Councilman Bissette.

Councilman Price said if action on the ordinance is postponed until next week, she would like to know how the neighborhood would feel about a R-3 Residential classification.

On a voice vote of 6-1, Councilman Boland's motion to table action until October 2, 1984, carried with Mayor McDevitt voting "no."

On a roll call vote of 7-0, Ordinance No. 1464 passed on third reading.

Complete text of Ordinance No. 1464 will be found in Ordinance Book No. 14 at page ~~210~~ 178 ✓

ORDINANCE NO. 1469 - BUDGET ORDINANCE AMENDMENT TO ESTABLISH CAPITAL PROJECTS BUDGET FOR THE TENTH YEAR COMMUNITY DEVELOPMENT BLOCK GRANT

9. Consideration was given to a budget ordinance amendment to establish the Capital Projects Budget for the Tenth Year Community Development Block Grant.

Mayor McDevitt said this budget amendment will establish the Capital Projects Budget for the Tenth Year Community Development Block Grant in the amount of $1,387,000. This will provide funding for the 1984-85 Community Development Program projects.

Mayor McDevitt said members of Council were furnished copies of the ordinance and it would not be read in its entirety.

Councilman Frank moved for the adoption of Ordinance No. 1469. This motion was seconded by Councilman Boland.

On a roll call vote of 7-0, Ordinance No. 1469 passed on first and final reading.

Complete text of Ordinance No. 1469 will be found in Ordinance Book No. 10 at page ~~219~~ 183 ✓

RESOLUTION NO. 84-182 - RESOLUTION AUTHORIZING THE MAYOR TO SIGN AN AGREEMENT FOR THE DEVELOPMENT OF AN FY-84 COST ALLOCATION PLAN

10. Consideration was given to a resolution authorizing the Mayor to sign an agreement for development of an FY-84 Cost Allocation Plan.

Mayor McDevitt said the City has received a proposal from David M. Griffith and Associates, Ltd. to prepare a plan which allocates FY-84 indirect costs at a proposed fee of $6,500. This proposal calls for the development of an A-87 plan to be used in the recovery of costs from federal and state funded programs and a full cost plan to be used in the recovery of costs from enterprises and other non-grant funded sources. Information provided by this plan will assist in recovery of revenues already included in the FY-85 budget. The cost of developing the plans is already included in FY'85 appropriations.

Upon motion of Councilman Bissette, seconded by Councilman Price, Resolution No. 84-182 was unanimously adopted.

Complete text of Resolution No. 84-182 will be found in Resolution Book No. 15 at page ~~50~~ 54-55 ✓

Mayor McDevitt said on February 23, 1984, the City of Asheville, the County of Buncombe, and NCNB Community Development Corporation and Southeastern Historic Properties, Inc. entered into a Memorandum of Understanding, which was subject to the City receiving an Urban Development Action Grant by August 1, 1984, which Grant has not been forthcoming. Through a series of negotiations and discussions, the parties have redefined the roles of both the private and public sectors. The parties entered into a separate agreement dated August 24, 1984, wherein the City and County make certain financial obligations to further the construction of the public improvements and the parking garage complex for the project. It is the intent of the City and County to continue to include the essential component of residential development provided by NCNB Community Development Corporation in the Wall Street Area Project.

Upon motion of Vice-Mayor Bratton, seconded by Councilman Frank, Resolution No. 84-181 was unanimously adopted.

Complete text of Resolution No. 84-181 will be found in Resolution Book No. 15 at page 49. 52 7

CONSIDERATION OF LAYOFF POLICY

7. Mayor McDevitt announced that a resolution approving a layoff policy will be on the agenda for October 2, 1984. He requested that Mr. Graves, Director of Management Services, develop several alternatives to the proposed policy to present to Councilmembers. He said the alternatives should address the concerns expressed by the employees during the public hearing on September 18, 1984.

Councilman Price suggested that the policy include a provision that instead of department heads executing a plan, a committee, appointed by the City Manager, make decisions relative to the execution of a layoff plan. She also requested that the policy have a statement included that the plan would be approved and adopted by the City Council prior to being implemented.

Mayor McDevitt said members of Council would discuss the alternatives at the Pree-Council meeting on October 2, 1984, and place the item on the agenda for consideration on October 2, 1984.

Vice-Mayor Bratton requested that the policy be written on a fifth or sixth grade level.

ORDINANCE NO. 1464 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED (REZONING PROPERTY ON SWANNANOA RIVER ROAD FROM CS TO LI)

8. Consideration was given to the third reading of Ordinance No. 1464, an ordinance amending Ordinance No. 322, known as "An ordinance providing for the zoning of the City of Asheville," as amended (rezoning property on Swannanoa River Road from CS to LI).

Mayor McDevitt said this ordinance was previously read on first and second reading and would not be reread in its entirety unless there was a specific request to do so.

RESOLUTION NO. 84-185 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE ON BEHALF OF THE CITY OF ASHEVILLE A FEDERAL AVIATION GRANT AGREEMENT, PROJECT NO. 3-37-0005-03

13. Consideration was given to a resolution authorizing the Mayor to execute on behalf of the City of Asheville a Federal Aviation Grant Agreement, Project No. 3-37-0005-03.

Mayor McDevitt said the FAA has offered a grant agreement to the Asheville Regional Airport Authority in the amount of $271,366 for the installation of the Runway Surface Condition Sensor and related equipment, Purchase of Rapid Intervention Aircraft Fire and Rescue Vehicle to replace Rescue I, Purchase of Proximity Suits in sufficient quantity to outfit each airport fire fighter, Purchase of Spreader Unit to be installed on current snowplow for dispensing de-icing material on runways, taxiways and ramps. The City of Ashville and the County of Buncombe are sponsors of the agreement, and the FAA requires each sponsor to execute the grant agreement.

Upon motion of Councilman Frank, seconded by Councilman Myers, Resolution No. 84-185 was unanimously adopted.

Complete text of Resolution No. 84-185 will be found in Resolution Book No. 15 at page 53. 58 ✓

RESOLUTION NO. 84-186 - RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF ASHEVILLE TO EXECUTE A RIGHT-OF-WAY ENCROACHMENT AGREEMENT BY AND BETWEEN THE CITY OF ASHEVILLE AND THE STATE OF NORTH CAROLINA FOR THE PURPOSE OF INSTALLING A FIRE ALARM WIRE IN BEAUCATCHER TUNNEL

14. Consideration was given to a resolution authorizing the Mayor of the City of Asheville to execute a right-of-way encroachment agreement by and between the City of Asheville and the State of North Carolina for the purpose of installing a fire alarm wire in Beaucatcher Tunnel.

Mayor McDevitt said the City of Asheville desires to encroach on the right-of-way of the public road designated as U.S. Route 70 located in Beaucatcher Tunnel for the purpose of installation of a fire alarm wire in accordance with the State of North Carolina specifications in the Beaucatcher Tunnel. The North Carolina Department of Transportation requires that the City enter into an encroachment agreement prior to installation of the wire. This resolution will authorize the Mayor to execute said right-of-way encroachment agreement.

Upon motion of Councilman Frank, seconded by Councilman Price, Resolution No. 84-186 was unanimously adopted.

Complete text of Resolution No. 84-186 will be found in Resolution Book No. 15 at page 54. 59 ✓

RESOLUTION NO. 84-183 - RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF ASHEVILLE TO MAKE APPLICATION FOR STATE SENIOR CENTER FUNDS

11. Consideration was given to a resolution authorizing the Mayor of the City of Asheville to make application for State Senior Center Funds.

Mayor McDevitt said the North Carolina Department of Human Resources Division of Aging has a program whereby grants are available for acquisition or renovation of senior citizen centers. The program of services at the Harvest House Center could be improved by the use of funds from this grant. This resolution will authorize the Mayor to sign an application with the North Carolina Department of Human Resources Division of Aging for state center funds for Harvest House in the amount of $12,000. This grant will provide funds for a new deck, ceiling fans and woodworking equipment at Harvest House Center. Of the total grant ($12,000), 75% will be furnished by the state with 25% being furnished by the City. This 25% will come from labor from Park Maintenance Division (½) plus $1,500 in contributions from Harvest House participants. These improvements make possible an expanded program at no additional cost.

Upon motion of Councilman Price, seconded by Councilman Frank, Resolution No. 84-183 was unanimously adopted.

Complete text of Resolution 84-183 will be found in Resolution Book No. 15 at page 56.

RESOLUTION NO. 84-184 - RESOLUTION AUTHORIZING THE MAYOR TO SIGN A CONTRACT FOR FIRE PROTECTION SERVICES WITH THE VETERANS ADMINISTRATION MEDICAL CENTER AT OTEEN

12. Consideration was given to ta resolution authorizing the Mayor to sign a contract for fire protection services with the Veterans Administration Medical Center at Oteen.

Mayor McDevitt said the present agreement for certain fire protection services with the Veterans Administration Medical Center at Oteen expires on September 30, 1984. City staff and VA staff are continuing to negotiate to resolve some conflicts in the contract clauses so that said contract period can be extended. This resolution would authorize the Mayor to sign an agreement with the Veterans Administration Medical Center extending the current contract for one month through October 31, 1984. Revenue generated from this contract is already included in FY '85 budget.

Upon motion of Councilman Price, seconded by Councilman Boland, Resolution No. 84-184 was unanimously adopted.

Complete text of Resolution No. 84-184 will be found in Resolution Book No. 15 at page 57.

Tuesday - October 2, 1984 - 4:00 p.m.

Regular Meeting

Present: Mayor Larry McDevitt, Presiding; Vice-Mayor Wilhelmina Bratton; Councilmen Mary Lloyd Frank, Norma T. Price, Gordon Myers, Walter R. Boland, and Louis Bissette; Corporation Counsel William F. Slawter; City Manager Neal Creighton; Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: None

INVOCATION

The invocation was given by Councilman Gordon Myers.

APPROVAL OF THE MINUTES

1. Approval of the minutes of the September 25, 1984 meeting.

Mayor McDevitt announced the approval of the minutes of the September 25, 1984 meeting as submitted.

OATH OF OFFICE - NEAL CREIGHTON - CITY MANAGER

2. Mayor McDevitt administered the Oath of Office to Neal Creighton as City Manager.

PROCLAMATION - "MINORITY BUSINESS ENTERPRISE DEVELOPMENT WEEK" - OCTOBER 1-6, 1984

Mayor McDevitt read a proclamation proclaiming October 1-6, 1984 as "Minority Business Enterprise Development Week".

Mayor McDevitt presented the proclamation to Wayne Purcell, Coordinator of the Asheville Business Development Center.

PROCLAMATION - "EMPLOY THE HANDICAPPED WEEK" - OCTOBER 7-13, 1984

3. Mayor McDevitt read a proclamation proclaiming the week of October 7-13, 1984 as "Employ the Handicapped Week".

Mayor McDevitt presented the proclamation to Linda Demos, Chairman of the Mayor's Committee on Employment of the Handicapped.

PROCLAMATION - "FIRE PREVENTION WEEK" - WEEK OF OCTOBER 7, 1984

4. Mayor McDevitt read a proclamation proclaiming the week beginning October 7, 1984 as "Fire Prevention Week".

Mayor McDevitt presented the proclamation to Chief Ball and Assistant Chief Causey of the Asheville Fire Department.

COUNCILMAN BISSETTE - CLOSING OF RIVER ROAD FOR CONCRETE POURING

Councilman Bissette said he had received several complaints relative to the closing of River Road for concrete pouring. The City Manager advised Councilman Bissette that the road would be open by Friday.

SPEED LIMIT ON OTTARI ROAD - CLOSING OF ROAD BEHIND IRA B. JONES SCHOOL

Mayor McDevitt requested that the City Manager ask the staff to look into the feasibility of closing the road behind Ira B. Jones School. He said he felt this would be in connection with the speed limit change on Ottari Road to be considered on October 2, 1984.

CLAIMS - AVA PAYNE (WATER) - IKE NOAH (STREETS) - RUFUS MOORE (SEWER) - ALBERT NABONSEL (STREETS)

The City Manager presented claims received from Ava Payne, Ike Noah, Rufus Moore, and Albert Nabonsel.

Mayor McDevitt referred the claims to the Corporation Counsel for investigation and recommendation.

EXECUTIVE SESSION - PERSONNEL MATTERS AND REAL ESTATE

Vice-Mayor Bratton moved that Council go into Executive Session to discuss a personnel matter and a real estate matter. This motion was seconded by Councilman Frank and carried unanimously.

Mayor McDevitt announced that the City Council members would have a work session on Thursday, September 27, 1984, at 5:30 p.m. in the City Council Conference Room.

Mayor McDevitt
MAYOR

William F. Holcombe
CITY CLERK

Mike Moody, a resident of Beverly Hills, spoke in opposition to the rezoning, stating that rezoning, allowing business development, would destroy the community. He said the Beverly Hills area deserves protection and should be preserved.

Robert Pitts, Attorney for the Beverly Hills Homeowners Association, said the residents in the area, as well as the Homeowners Association considered the feasibility of a R-3 Residential District vs. R-4 Residential District. He said the Homeowners Association and the residents still have objections to either the R-3 or R-4 zoning. He said, in his opinion, a R-3 zoning would also constitute "spot zoning". He said the deed restrictions on record are valid, and would not permit R-3 or R-4 uses.

Upon inquiry of Mayor McDevitt, Mr. Pitts said the deed restrictions did not restrict Council's decision on the zoning. However, the uses allowed in the R-3 or R-4 zoning would be restricted by the deed restrictions on record.

Mr. Pitts also presented a petition, signed by 76 residents of the Beverly Hills subdivision, in opposition to the rezoning. He requested that Council uphold the decision of the Planning and Zoning Commission to deny the rezoning request.

Mr. Gary Rowe, Attorney representing Dr. Michael Justice and other property owners requesting the rezoning, spoke in favor of the rezoning. He said his clients had discussed the feasibility of a R-3 zoning classification and would agree to the matter being remanded to the Planning and Zoning Commission for study for a R-3 zoning classification. He said, however, that some study should be made by the City Attorney relative to the 2,000 square foot limitation placed on conditional uses in a R-3 zoning classification. He also requested that the City Attorney determine whether or not the Zoning Board of Adjustments can alter the 2,000 square foot limitation. He said the business venture of Dr. Michael Justice would not encroach into the residential area of Beverly Hills. He said, in his opinion, spot zoning, and deed restrictions are legal matters and should not be considered by Council in the rezoning request. He said the R-4 zoning classification is consistent with the present uses in the area fronting on Tunnel Road.

There being no further discussion, Mayor McDevitt asked for a motion relative to the adoption of the Ordinance rezoning the property.

Mayor McDevitt announced that the ordinance died for the lack of a motion, and Dr. Justice's appeal is denied.

ORDINANCE NO. 1471 - AN ORDINANCE AMENDING SECTION 28-81.2 (B), SECTION 28-81.4 AND SECTION 28-82 OF ARTICLE 4, SPEED REGULATIONS, OF CHAPTER 28 OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE

7. Consideration was given to an ordinance amending Section 28-81.2 (B), Section 28-81.4 and Section 28-82 of Article 4, Speed Regulations, of Chapter 28 of the Code of Ordinance of the City of Asheville (Ottari Road).

Mayor McDevitt said the Asheville City Council received a petition from the residents of Ottari Road and the surrounding area requesting that

PROCLAMATION - "DOMESTIC VIOLENCE AWARENESS MONTH" - OCTOBER, 1984

Mayor McDevitt read a proclamation proclaiming the month of October, 1984 as "Domestic Violence Awareness Month".

Mayor McDevitt presented the proclamation to Ann VanBrock, Executive Director of Helpmate.

PUBLIC HEARING - FINAL PLAT OF PROPOSED "HAZELWOOD SUBDIVISION" - LOCATED ON NORTH LOUISIANA AVENUE

5. A public hearing was held relative to the final plat of the proposed "Hazelwood Subdivision" to be located off North Louisiana Avenue.

Mayor McDevitt said at a meeting held on April 4, 1984, the Planning and Zoning Commission approved the preliminary plat of the "Hazelwood Subdivision" (then named Ashley Subdivision) to be located on North Louisiana Avenue. The plat was prepared by S. V. Griffith, R.L.S., for Frank McGahren and Walter Weiss, Developers, and submitted in accordance with Ordinance No. 424. The final plat meets all requirements of the subdivision ordinance, and the Planning and Zoning Commission recommends approval of the plat to the Asheville City Council.

Mayor McDevitt opened the public hearing at 4:25 p.m.

The City Manager presented a notice to the public, setting a time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, requested that action be postponed on the approval of the site plan due to several problems involved with the plat.

Councilman Boland moved to continue the public hearing until October 9, 1984, without further advertisement. This motion was seconded by Councilman Price and carried unanimously.

ORDINANCE - REZONING PROPERTY IN BEVERLY HILLS

6. Consideration was given to an ordinance amending Ordinance No. 322, known as "An ordinance providing for the Zoning of the City of Asheville", as amended, rezoning property located in Beverly Hills.

Mayor McDevitt said on Wednesday, August 8, 1984, the Asheville Planning and Zoning Commission voted to recommend to City Council that the rezoning of Ward 8, Sheet 35, Lots 29, 24-27, 68, 69; Ward 8, Sheet 19, Lots 107, 106, 83, 105, 82, 81, 80, and 79 from R-1 Residential District to R-4 Residential District be denied. Dr. Justice appealed the decision of the Planning and Zoning Commission to the Asheville City Council. A public hearing was held on this matter on September 25, 1984, and this ordinance was scheduled for consideration at the October 2, 1984 meeting.

Mayor McDevitt said members of Council were furnished copies of the ordinance and it would not be read in its entirety.

Mayor McDevitt said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Mayor McDevitt said the City of Asheville owns a tract of land adjoining the Western North Carolina Agricultural Center containing approximately 65.5 acres. The State of North Carolina desires to purchase 50 acres of said tract for the expansion of the WNC Agricultural Center. City Council deems the sale of said 50 acres to the State for the sum of $500,000 to be in the best interest of the City. Said sale is authorized by N.C.G.S. 160A-274. This resolution will authorize the Mayor to sign an option agreement for the sale of the land to the State of North Carolina. Provided, however, that said option agreement shall be contingent upon the City of Asheville being free from any restriction that might be imposed by the FAA or other authority upon the expenditure of the funds derived from said sale.

A discussion was held relative to amending the option agreement to insure that the City of Asheville would retain three additional outsites along Fanning Bridge Road to be 250 foot in depth measured from the existing road or any currently proposed widening by the North Carolina Department of Transportation.

Mayor McDevitt said the option agreement would comply with this principle before being executed.

Upon motion of Councilman Boland, seconded by Councilman Myers, Resolution No. 84-188 was unanimously adopted.

Complete text of Resolution No. 84-188 will be found in Resolution Book No. 15 at page 36, 62 ff.

SALE OF DISPOSAL PARCEL #154 - EAST RIVERSIDE RENEWAL PROJECT

10. Consideration was given to a motion approving the sale of Disposal Parcel #154 in the East Riverside Renewal Project.

Mayor McDevitt said the Housing Authority has tentatively accepted the following bid for Disposal Parcel #154 in the East Riverside Renewal Project:

Reuse	Price	Bid	Redeveloper
Office/Institutional	$15,000	$15,001	Carl & Catherine Mumpower

This property is located on McDowell Street. The above bidder has proposed to construct a small wood frame structure (1,050 sq. ft.) with a beige stucco finish and factory-painted steel standing seam roof. This structure will serve as a new professional office for the Asheville Counseling Center. Ten (10) parking spaces will be available for staff and clients. No more than four 4 staff members will occupy the building at any one time. The number of clients will vary.

Councilman Price moved to approve the sale of Disposal Parcel #154 in the East Riverside Renewal Project as recommended by the Housing Authority. This motion was seconded by Councilman Boland and carried unanimously.

the speed limit be reduced from 30 mph to 20 mph. The reason for the residents request is primarily due to safety concerns relative to the street and its proximity to Jones School, children playing, inconsistency of sidewalks being on the same side of the street, the width of Ottari Road, and the fact that Ottari Road is currently used as a "thru" street between Kimberly Avenue and Merrimon Avenue. This ordinance will also amend the description of the 20 mph school zone at Jones School to read "Kimberly Avenue between Lorraine Avenue and Country Club Road."

Mayor McDevitt said members of Council were furnished copies of the ordinance and it would not be read in its entirety.

Mayor McDevitt said, as discussed during the Pre-Council meeting, the ordinance was changed to include, in Section 28-82, Jones Elementary School for a 20 mph zone from Kimberly Avenue from Lorraine Avenue north to Country Club Road.

It was the consensus of Council that the school zone sign remain on Ottari Road. However, the sign should not include the designated hours on the sign, since this would be a 20 mph zone.

Councilman Frank moved for the adoption of Ordinance No. 1470. This motion was seconded by Councilman Bissette.

On a roll call vote of 7-0, Ordinance No. 1470 passed on first reading.

RESOLUTION NO. 84-187 - RESOLUTION APPROVING THE ADOPTION OF RULE 6 OF THE CIVIL SERVICE RULES AND REGULATIONS ESTABLISHING A LAYOFF POLICY FOR THE CITY OF ASHEVILLE

8. Consideration was given to a resolution approving the adoption of Rule 6 of the Civil Service Rules and Regulations establishing a layoff policy for the City of Asheville.

Mayor McDevitt said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Mayor McDevitt read the proposed policy to be attached to Resolution No. 84-187.

Upon motion of Councilman Frank, seconded by Councilman Price, Resolution No. 84-187 was unanimously adopted.

Complete text of Resolution No. 84-187 will be found in Resolution Book No. 15 at page 55 - 60 and 61 ℄

RESOLUTION NO. 84-188 - RESOLUTION AUTHORIZING THE MAYOR THE SIGN AN OPTION AGREEMENT FOR THE SALE OF LAND TO THE STATE OF NORTH CAROLINA

9. Consideration was given to a resolution authorizing the Mayor to sign an option agreement for the sale of land to the State of North Carolina.

Tuesday, October 9, 1984 - 4:00 p.m.

Regular Meeting

Present: Mayor Larry McDevitt, Presiding: Vice-Mayor Wilhelmina Bratton: Councilmen Norma T. Price, Gordon Myers, Walter R. Boland, and Louis Bissette; Corporation Counsel William F. Slawter; City Manager Neal Creighton; Deputy City Clerk Carol Hensley

Absent: Councilman Mary Lloyd Frank, Associate City Manager/City Clerk William F. Wolcott, Jr.

INVOCATION

1. The invocation was given by Councilman Walter Boland.

APPROVAL OF THE MINUTES

2. Approval of the minutes of the October 2, 1984 meeting.

Mayor McDevitt announced the approval of the minutes of the October 2, 1984, meeting with one typographical error noted.

PROCLAMATION "HIGHER EDUCATION WEEK" - October 8 - 15, 1984

3. Mayor McDevitt read a proclamation proclaiming the week of October 8 - 15, 1984 as "Higher Education Week."

Mayor McDevitt requested that Councilman Boland present the proclamation to the appropriate officials.

PROCLAMATION - "VOTE FOR HARMONY WEEK" - WEEK OF OCTOBER 15, 1984

Mayor McDevitt read a proclamation proclaiming the week of October 15, 1984, as "Vote for Harmony Week."

A quartet from the Land-of-Sky Chorus sang for members of Council.

Mayor McDevitt presented a proclamation to Mr. Glen Hollis, President of the Land-of-Sky Chorus group.

PUBLIC HEARING - REZONING PROPERTY ON CRAYTON ROAD

ORDINANCE NO. 1471 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED (REZONING PROPERTY LOCATED ON CRAYTON ROAD)

3. A public hearing was held relative to rezoning property located on Crayton Road (owned by the Crayton estate).

VICE-MAYOR BRATTON - TRIP TO WINSTON-SALEM AND ROANOKE - DOWNTOWN DEVELOPMENT

Vice-Mayor Bratton reported that she traveled with a group, jointly sponsored by the Junior League and the Chamber of Commerce, to Winston-Salem and Roanoke, Virginia to visit the Stevens Center and the Center in the Square in Roanoke. She said the group would be holding a press conference to reveal their findings on Friday, October 12, 1984, at noon. She said this information would be provided to the City Council and the County Commissioners at the press conference.

APPOINTMENT OF MR. J. W. BYERS - ALCOHOLIC BEVERAGE CONTROL BOARD

Councilman Frank moved to reappoint Mr. J. W. Byers as a member of the Alcoholic Beverage Control Board. This motion was seconded by Vice-Mayor Bratton and carried unanimously.

REPORT REQUESTED BY MR GUY PENLAND - ROBINWOOD AVENUE

Mr. Guy Penland again appeared before Council requesting a report on his request for fire hydrants and street paving on Robinwood Avenue. He said it was his understanding that a report was given from the City staff that the road did not need fixing. He said this is a high priority item to the residents of Robinwood Avenue.

Mayor McDevitt apologized to Mr. Penland for not receiving a response and informed Mr. Penland that a response would be given to him relative to his requests.

RALPH BISHOP - SOUTH PACK SQUARE REDEVELOPMENT PROJECT

Mr. Ralph Bishop appeared before Council opposing the eminent domain proceedings to be carried out in the South Pack Square Redevelopment Project.

CLAIMS - SHARON HELTON (PARKING SERVICES)

The City Manager presented a claim received from Sharon Helton.

Mayor McDevitt referred the claim to the Corporation Counsel for investigation and recommendation.

LAWSUITS - ASHEVILLE HOUSING AUTHORITY - CONDEMNATION OF JANIE N. JOHNSON PROPERTY (EAST END/VALLEY STREET)

The City Manager said the City was served with a summons in connection with a lawsuit involving the Asheville Housing Authority and the condemnation of Janie N. Johnson property (East End/Valley Street area).

Mayor McDevitt referred the summons to the Corporation Counsel for investigation and recommendation.

ADJOURNMENT

Councilman Price moved to adjourn the meeting at 5:30 p.m. This motion was seconded by Vice-Mayor Bratton and carried unanimously.

Gary McDevitt
MAYOR

William F. Malone
CITY CLERK

On a roll call vote of 6-0, Ordinance No. 1471 passed on first reading.

At the request of Attorney Bill Moore, Councilman Boland moved to suspend the rules and proceed to the second reading of Ordinance 1471. This motion was seconded by Councilman Myers and carried on a voice vote of 5-1, with Councilman Price voting "no."

On a roll call vote of 6-0, Ordinance No. 1471 passed on second reading.

PUBLIC HEARING - REZONING PROPERTY LOCATED ON HAYWOOD ROAD

ORDINANCE NO. 1472 - AN ORDINANCE AMENDING ORDINANCE NO. 322 KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE" AS AMENDED, (REZONING PROPERTY LOCATED ON HAYWOOD ROAD)

4. A public hearing was held relative to rezoning property located on Haywood Road, requested by R & R Associates.

Mayor McDevitt said the Asheville Planning and Zoning Commission at its meeting on September 5 considered the rezoning of Ward 6, Sheet 1, Lot 291 from R-3 Residential District to CS Commercial Service District. After discussion, the Commission voted to recommend approval of the rezoning to City Council.

Mayor McDevitt opened the public hearing at 4:35 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said, the property requested to be rezoned is located on Haywood and is contiguous to a Commercial Service District. He said no reports have been presented in opposition to the rezoning.

Jan Grimes, Attorney for the Petitioner, spoke in support of the rezoning. He said R & R Associates proposes to construct a model home on the property.

After discussion, Mayor McDevitt closed the public hearing at 4:38 p.m.

Mayor McDevitt said members of Council were furnished copies of the ordinance and it would not be read in its entirety.

Councilman Boland moved for the adoption of Ordinance No. 1472. This motion was seconded by Councilman Bissette.

On a roll call vote of 6-0, Ordinance No. 1472 passed on first reading.

At the request of Attorney Jan Grimes, Councilman Boland moved to suspend the rules and proceed to the second reading of Ordinance No. 1472. This motion was seconded by Councilman Myers and carried on a voice vote of 5-1, with Councilman Price voting "no."

Mayor McDevitt said the Asheville Planning and Zoning Commission at its meeting on September 5 considered the rezoning of Ward 7, Sheet 15, Lots 85, 85-½, and 229 from R-3 Residential District to LI Light Industrial District. Staff pointed out that this property on Crayton Road has been underutilized for some time and there exists a potential at this time for use of the now vacant land. Also, the Asheville Chamber of Commerce lists this property as potential industrial property. After discussion, the Commission voted to recommend approval to City Council that Ward 7, Sheet 15, Lots 85, 229, and a portion of Lot 85-½ be rezoned to LI Light Industrial District. The Commission also recommends that a 40' buffer be provided and that a "No Left Turn" sign be placed on Crayton Road at the exit from the property.

Mayor McDevitt opened the public hearing at 4:20 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said this rezoning was considered by Council and the Planning and Zoning Commission in 1982. However, the request was withdrawn because a proposed developer for the property was not available, and the impact of the rezoning could not be ascertained. He said, during the last several months, the Planning Staff has worked with a proposed developer, Ingle/Mayflower, for development of the property. He said Ingle/Mayflower proposes to move to this location, since their building has been sold to the County. He said the Planning and Zoning Board recommended that a 40' buffer be provided for the residents on Liberty Street and that a "No Left Turn" sign be placed on Crayton Road at the exit from the property to negate vehicular traffic on Liberty Street and Washington Road. He said this would force traffic onto Crayton Road and Sweeten Creek Road. He said since Planning and Zoning's amended recommendation, there is only one protest, being from Mr. Roland who owns Lot 207. He said no written protest has been received.

Bill Moore, Attorney representing Smith/Mayflower spoke in support of the rezoning. He presented plans and drawings of the proposed building. He said the building would consist of 24,000 square feet which would include warehousing, storage, and office space. He said the total value of these improvements would be $500,000.00, increasing the tax base for the City. He said the property proposed to be rezoned abuts an LI zone, and ingress and egress from the property would be from a proposed interstate ramp on the western side of the property. He said approximately 14 vehicles per day would use the entrance and a "No Left Turn" sign could be put at Crayton Road which would be satisfactory to Smith/Mayflower. He said his clients could comply with the buffering recommended by the Planning and Zoning Commission. Upon inquiry of Council, Mr. Moore said construction of the building could begin in 60 days.

After discussion, Mayor McDevitt closed the public hearing at 4:31 p.m.

Mayor McDevitt said members of Council were furnished copies of the ordinance and it would not be read in its entirety.

Councilman Price moved for adoption of Ordinance No. 1471 as recommended by the Planning and Zoning Commission. This motion was seconded by Councilman Boland.

After discussion, Mayor McDevitt closed the public hearing at 4:58 p.m.

Councilman Price moved for the approval of the final plat of the "Hazelwood Subdivision" to be located on North Louisiana Avenue. This motion was seconded by Councilman Bissette and carried unanimously.

ORDINANCE NO. 1470 - AN ORDINANCE AMENDING SECTION 28-81.2(b), SECTION 28-81.4, AND SECTION 28-82 OF ARTICLE IV, SPEED REGULATIONS, OF CHAPTER 28 OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE (OTTARI ROAD)

6. Consideration was given to the second reading of Ordinance 1470, an ordinance amending section 28-81.2(b), Section 28-81.4, and Section 28-82 of Article IV, Speed Regulations, of Chapter 28 of the Code of Ordinances of the City of Asheville (Ottari Road).

Mayor McDevitt said this ordinance was previously read on first and second reading and would not be reread in its entirety unless there was a specific request to do so.

On a roll call vote of 6-0, Ordinance No. 1470 passed on second reading.

SCHEDULING PUBLIC HEARING

Councilman Price moved to schedule a public hearing relative to rezoning property located on Greenhill Avenue for October 23, 1984. This motion was seconded by Councilman Myers and carried unanimously.

CLAIMS - JERRY SHIPLEY (METER SERVICES) - WAYNE WILSON (METER SERVICES) - DAVID STANBY (POLICE)

The City Manager presented claims received from Jerry Shipley, Wayne Wilson, and David Stanby.

Mayor McDevitt referred the claims to the Corporation Counsel for investigation and recommendation.

ANNOUNCEMENT - RECEIPT OF UDAG GRANT AGREEMENT FOR SOUTH PACK SQUARE REDEVELOPMENT PROJECT

Mayor McDevitt announced that the City has received the grant agreement for UDAG funding for the South Pack Square Redevelopment Project. He said the staff and Council are in the process of reviewing the agreements and action would be taken on the execution of the agreement at the October 16, 1984, meeting.

On a roll call vote of 6-0, Ordinance No. 1472 passed on second reading.

CONTINUATION OF PUBLIC HEARING - FINAL PLAT OF "HAZELWOOD SUBDIVISION" - NORTH LOUISIANA AVENUE

5. A public hearing relative to the final plat of the proposed "Hazelwood Subdivision" to be located on North Louisiana Avenue continued.

Mayor McDevitt said at a meeting held on April 4, 1984, the Planning and Zoning Commission approved the preliminary plat of the "Hazelwood Subdivision" (then named Ashley Subdivision) to be located on North Louisiana Avenue. The plat was prepared by S. V. Griffith, R.L.S., for Frank McGahren and Walter Weiss, Developers, and submitted in accordance with Ordinance No. 424. The final plat meets all requirements of the subdivision ordinance, and the Planning and Zoning Commission recommends approval of the plat to the Asheville City Council. This public hearing was continued from the October 2, 1984, meeting.

Verl Emrick, Director of Planning, said the primary reason for the request to continue the public hearing at last weeks meeting was that he had been apprised of a situation, involving the proposed subdivision, that could have led to technical problems in violation of state laws relative to the transfer of property. However, in reviewing the situation, it was determined that the porperties had not been transferred, but options had been placed on lots in the proposed subdivision. He said, in addition, six mobile homes had been moved into the subdivision, prior to Council's approval. He said in the extra territorial zoning district, zoning permits are issued. He said it was also determined that the individuals that had moved the mobile homes on the lots were living in them, with only generator hook-ups and kerosene heaters. He said he took it upon himself to issue zoning permits to these homes prior to Council approval for safety precautions for the individuals. He said he talked with the developer, Mr. Weiss, and advised him that no other permits would be issued, and the Buncombe County Public Safety Department and Health Department were made aware of the situation. He said the final plat meets all requirements of the subdivision ordinance. He said the Planning and Zoning Commission only approved Phase I of the development. However, the developer has already started cutting roads in Phase II of the project, which is also in violation of the subdivision ordinance.

Mayor McDevitt noted that the action taken by the Planning Director in issuing the zoning permits, prior to approval, is not typical -- although done with humane concern -- and is a practice the City should not engage in.

Councilman Boland said he felt the action of the Planning Director sets a dangerous precedent for all parties concerned.

Mr. Walter Weiss said his actions as a developer were taken out of ignorance of the subdivision regulations and not intentional. He apologized for the Planning Director's embarrassment. He said, however, he has not violated any health or safety requirements. Upon inquiring of Council, Mr. Weiss said he presented the entire development to Planning and Zoning, and it was his opinion that Phase II had also been approved. He said since notified that this is not the case, he is moving forward to present Phase II for approval, and stated that no further development of Phase II would take place until approved by Council.

Tuesday - October 16, 1984 - 4:00 p.m.

Regular Meeting

Present: Mayor Larry McDevitt, Presiding; Vice-Mayor Wilhelmina Bratton; Councilmen Mary Lloyd Frank, Norma T. Price, Gordon Myers, and Walter R. Boland; Corporation Counsel William F. Slawter; City Manager Neal Creighton.; Associate City Manager/City Clerk William F. Wolcott, Jr..

Absent: Councilman Louis Bissette

INVOCATION

The invocation was given by Councilman Mary Lloyd Frank.

APPROVAL OF THE MINUTES - OCTOBER 9, 1984

1. Mayor McDevitt announced the approval of the minutes of the October 9, 1984 meeting as submitted.

RESOLUTION NO. 84-189 - RESOLUTION TO AUTHORIZE THE MAYOR TO SIGN ON BEHALF OF THE CITY OF ASHEVILLE A GRANT AGREEMENT WITH THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT FOR THE PACK PLAZA UDAG PROJECT

2. Consideration was given to a resolution to authorize the Mayor to sign on behalf of the City of Asheville a Grant Agreement with the U. S. Department of Housing and Urban Development for the Pack Plaza UDAG Project.

Mayor McDevitt said on May 9, 1984, the City received notification from the U. S. Department of Housing and Urban Development of Preliminary Approval for UDAG funding in the amount of $3,400,000 for the Pack Plaza Project. On October 3, 1984, the City received a Grant Agreement from HUD which sets forth specific terms and conditions of the grant. Execution of the Grant Agreement will obligate the grant funds for the project. Final approval for the project will be obtained only after all evidentiary material and other documents called for in the Grant Agreement have been submitted to and accepted by HUD.

Revenue to be appropriated on 10/16/84:	
General Revenue Sharing	300,000
Community Development	1,529,100
Buncombe County	660,000
Developer	56,000
UDAG	3,400,000
Project Revenue	1,000,000
Total Appropriation	6,945,100

Project will increase City tax base by approximately $10,135,000. Net increase of tax paid of City is estimated to be $79,107 annually, (includes property, sales and personal property tax)

Mayor McDevitt read the resolution.

RALPH BISHOP - LOTTERY SALES

Mr. Ralph Bishop again spoke to members of Council requesting that the new City Manager take action to prohibit the sale of lottery tickets in the City of Asheville.

ADJOURN TO EXECUTIVE SESSION

Councilman Myers moved to adjourn to Executive Session to discuss a personnel and real estate matter. This motion was seconded by Councilman Bissette and carried unanimously.

It was noted that Council would meet on Thursday, October 11, 1984, at 5:30 p.m. for a work session.

Larry McDevitt
MAYOR

William F. Maxwell Jr.
CITY CLERK

Mayor McDevitt said this ordinance was previously read on first and second reading and would not be reread in its entirety unless there was a specific request to do so.

On a roll call vote of 6-0, Ordinance No. 1471 passed on third reading.

Complete text of Ordinance No. 1471 will be found in Ordinance Book No. 10 at page ~~221 and 222~~. 185 and 186

PUBLIC HEARING - URBAN MASS TRANSPORTATION ADMINISTRATION - SECTION 9A, TECHNICAL STUDIES PLANNING GRANT

6. A public hearing was held relative to the submission of an application with the Urban Mass Transportation Administration, Section 9A, Technical Studies Planning Grant.

Mayor McDevitt said this public hearing will afford the citizens of Asheville an opportunity to express their opinion relative to the filing of an application for a Technical Studies Grant. The total amount of grant funds being applied for is $7,000; funded 80% by the federal, 10% by the state, and 10% local funding.

Mayor McDevitt opened the public hearing at 4:21 p.m.

The City Clerk presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Carl Owenby, with the Asheville Transit Authority, said this public hearing is a federal requirement for the receiving of Section 9A, Technical Studies Planning Grant funds.

Mayor McDevitt closed the public hearing at 4:24 p.m.

PUBLIC HEARING - PROPOSED ORDINANCE AMENDING CHAPTER 5 (ANIMALS AND FOWLS) OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE

7. A public hearing was held relative to a proposed ordinance amending Chapter 5 (animals and fowls) of the Code of Ordinances of the City of Asheville.

Mayor McDevitt said this ordinance will provide regulations for the keeping of animals and fowls in the City of Asheville. Council will receive public comments relative to the proposed ordinance, but will take no action on the ordinance at this meeting.

Corporation Counsel Slawter said this proposed ordinance would enlarge the approach to animal control in the City of Asheville. He said the main item in the proposed ordinance is provisions for nuisances relating to animals. He said most of the provisions in the existing dog control ordinance are being carried forward in this proposed ordinance. Mr. Slawter briefly outlined the provisions of the proposed ordinance.

Upon motion of Vice-Mayor Bratton, seconded by Councilman Price, Resolution No. 84-189 was unanimously adopted.

Complete text of Resolution No. 84-189 will be found in Resolution Book No. 15 at page 637.

PRESS RELEASE RELATIVE TO UDAG APPLICATION FOR PROPOSED WALL STREET PROJECT

Mayor McDevitt read a prepared press release statement stating that: "We have been notified unofficially by HUD, that the UDAG application for the proposed Wall Street Project has been rolled over until the November application period. There continues to be interest in this area by developers, and Council is in the process of considering whether or not to approve the roll over or to seek a new developer or both. As we have stated repeatedly, this is a lengthy process, and while we are disappointed, we are not surprised and will continue our efforts on this project.

PROCLAMATION - LEAGUE OF WOMEN VOTERS WEEK - OCTOBER 14-20, 1984

3. Mayor McDevitt read a proclamation proclaiming the week of October 14-20, 1984 as "League of Women Voters Week".

Mayor McDevitt presented the proclamation to Leah Carpen.

PROCLAMATION - UNITED NATIONS DAY - WEDNESDAY, OCTOBER 24, 1984

4. Mayor McDevitt read a proclamation proclaiming Wednesday, October 24, 1984 as "United Nations Day".

Mayor McDevitt presented the proclamation to Jan Ramsey.

ORDINANCE NO. 1471 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED (REZONING PROPERTY LOCATED ON CRAYTON ROAD)

5. Consideration was given to the third reading of Ordinance No. 1471, an ordinance amending Ordinance No. 322, known as "An ordinance providing for the zoning of the City of Asheville," as amended (rezoning property located on Crayton Road).

Mayor McDevitt said the Asheville Planning and Zoning Commission at its meeting on September 5, considered the rezoning of Ward 7, Sheet 15, Lots 85, 85½, and 229 from R-3 Residential District to LI Light Industrial District. Staff pointed out that this property on Crayton Road has been underutilized for some time and there exists a potential at this time for use of the now vacant land. Also, the Asheville Chamber of Commerce lists this property as potential industrial property. After discussion, the Commission voted to recommend approval to City Council that Ward 7, Sheet 15, Lots 85, 229, and a portion of Lot 85½ be rezoned to LI Light Industrial District. The Commission also recommends that a 40' buffer be provided and that a "No Left Turn" sign be placed on Crayton Road at the exit from the property. This ordinance was read on first and second reading on October 9, 1984.

for an animal control officer should be well thought out. She said it should be someone who is concerned about animals and qualified. She said the Buncombe County Humane Society would be glad to provide suggested qualifications for the animal control officer. She said strong enforcement is needed for the investigation of cruelty to animals. She suggested that pet ID tags be required for dogs, and a collar or tatoo mark for dogs and cats.

Janice Willard of Norwood Park spoke in support of the ordinance citing problems she is having with dogs on her rental property.

Mr. Felkel of 135 Virginia Avenue spoke in support of the ordinance, stating that he was having problems with a dog tied close to his sleeping quarters.

Mr. Louis Bryan of 15 Tanglewood Drive also spoke in support of the ordinance, stating that he felt this would eliminate many problems in his neighborhood.

Ruth Bullock of Norwood Park also spoke in support of the ordinance, stating that an ordinance should be passed that no cats or dogs be allowed in a heavily populated residential neighborhood.

Nancy Allsworth of 149 Dunwell Avenue said she felt the proposed ordinance would alleviate a lot of their problems in their neighborhood.

Upon inquiry of Mrs. Allsworth, Mayor McDevitt said the provisions in the ordinance would not permit an animal control officer to go inside a residence to investigate dogs, without an administrative search warrant.

Henry Allsworth of 149 Dunwell Avenue also spoke in support of the ordinance.

Mr. Tom Gardner of Dunwell Avenue, spoke in support of the ordinance and requested that the ordinance not allow a grandfather clause.

Mayor McDevitt closed the public hearing at 5:44 p.m.

Mayor McDevitt noted that all comments would be taken under consideration and any comments individuals wish to send in would be considered prior to adoption of the ordinance.

RALPH BISHOP - COMMENTS - RELATIVE TO RESOLUTION NO. 84-189 - DIRECTING ATTENTION TO THE CITY OF ASHEVILLE

Ralph Bishop spoke in opposition to Resolution No. 84-189, particularly with Council exercising eminent domain and then giving the property to a developer.

Mr. Bishop also spoke to members of Council relative to Councilman Boland's trip to Pittsburgh, stating that all Council members should direct their attention to the City of Asheville, rather than other cities and towns.

Mr. T. V. Harris spoke in support of the ordinance, stating that Council needs to take some action for animal control in the City.

Mr. Wilson with the SPCA in Black Mountain requested that several sections of the proposed ordinance be amended. He said individuals should not be allowed to take their neighbor's dog to the shelter, and this portion of the ordinance should be deleted. He said the animal control officers should have the full responsibility for animal control.

Upon inquiry of Corporation Counsel Slawter, Mr. Wilson agreed that an individual could restrain a neighbor's animal until an Animal Control Officer arrived.

A discussion was held with Mr. Wilson relative to State laws on neglect and abuse of animals.

Mr. Robert L. McClure, 22 Westgate Road, spoke in support of the ordinance. He said he felt the proposed ordinance would eliminate a problem in his neighborhood with an attack dog training center.

Mr. William Darden of 20 Springside Drive, said he and his wife sometimes have 50 or more homeless and wounded cats on their property. He criticized Council for not consulting a veterinarian before creating an ordinance limiting pet owners to no more than six cats on their property. He said this is their hobby, and they would move out of the City if the ordinance is approved. He requested that the ordinance be amended to include a grandfather clause. He also requested that the ordinance address that no animal picked up and taken to the animal shelter will be sold for medical experiments. He said it is his understanding that the Buncombe County Animal Shelter sells animals for medical experiments. He requested a copy of any petitions presented to the members of Council relative to his keeping of cats on Springside Drive.

Councilman Frank advised Mr. Darden that he could comply with the ordinance in keeping more than six cats, if he obtains a permit and complies with all requirements.

Mayor McDevitt informed Mr. Darden that members of Council have not received copies of any petitions relative to his cats on Springside Drive.

Mr. Jack Nelson of I Sanford Drive, spoke in support of the ordinance, stating that the proposed ordinance would eliminate problems in his neighborhood.

Mr. Walker of 50 Merchant Street also spoke in support of the ordinance, citing problems in his neighborhood.

Janet Jackson, President of the Buncombe County Humane Society, spoke in support of the ordinance, stating that strong enforcement should be given to the nuisance provision. She requested that the City hire additional manpower for enforcement of the ordinance. She suggested that the ordinance provide for license requirements for cats neutered and unneutered, providing for a larger fee for unneutered cats. She said that qualifications

Mayor McDevitt said this budget ordinance will establish a budget in the Planning Department to carry out the Fiscal 1984-85 Transportation Planning Program, as amended. This budget amendment in the amount of $47,825 will provide an appropriation for the Planning Department to carry out Fiscal 1984-85 Planning Work Program for Transportation Planning. Funding is provided by Federal and State Transportation Funds.

Mayor McDevitt said members of Council were furnished copies of the ordinance and it would not be read in its entirety.

Councilman Price moved for the adoption of Ordinance No. 1475. This motion was seconded by Councilman Frank.

On a roll call vote of 6-0, Ordinance No. 1475 passed on first and final reading.

Complete text of Ordinance No. 1475 will be found in Ordinance Book No. 10 at page ~~226~~. 191

ORDINANCE NO. 1476 - BUDGET ORDINANCE TO ESTABLISH A CAPITAL PROJECT FUND ENTITLED "69 - DOWNTOWN URBAN REDEVELOPMENT FUND"

11. Consideration was given to a budget ordinance to establish a capital project fund entitled "69 - Downtown Urban Redevelopment Fund".

Mayor McDevitt said this budget ordinance will establish a capital project for the purpose of accounting for major downtown redevelopment projects. This budget in the amount of $6,945,100 is initially for the South Pack Square Redevelopment Project.

Mayor McDevitt said members of Council were furnished copies of the ordinance and it would not be read in its entirety.

Councilman Frank moved for the adoption of Ordinance No. 1476. This motion was seconded by Councilman Myers.

On a roll call vote of 6-0, Ordinance No. 1476 passed on first and final reading.

Complete text of Ordinance No. 1476 will be found in Ordinance Book No. 10 at page ~~227~~. 192

ORDINANCE NO. 1470 - AN ORDINANCE AMENDING SECTION 28-81.2(b), SECTION 28-81.4 AND SECTION 28-82 OF ARTICLE IV, SPEED REGULATIONS, OF CHAPTER 28 OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE (OTTARI ROAD).

12. Consideration was given to the third reading of Ordinance No. 1470, an ordinance amending Section 28-81.2(b), Section 28-81.4 and Section 28-82 of Article IV, Speed Regulations, of Chapter 28 of the Code of Ordinances of the City of Asheville (Ottari Road).

ORDINANCE NO. 1473 - A BUDGET ORDINANCE AMENDMENT TO APPROPRIATE FOR PURCHASE ORDERS ISSUED AND OUTSTANDING ON JUNE 30, 1984

8. Consideration was given to a budget ordinance amendment to appropriate for purchase orders issued and outstanding on June 30, 1984.

Mayor McDevitt said appropriations for purchase orders issued and outstanding at the end of each Fiscal Year must be carried forward and reappropriated to the next year's operating budget. This action is basically a "bookkeeping" transaction carrying forward appropriations for purchase orders and contracts issued and outstanding at June 30, 1984.

Mayor McDevitt said members of Council were furnished copies of the ordinance and it would not be read in its entirety.

Councilman Boland moved for the adoption of Ordinance No. 1473. This motion was seconded by Councilman Price.

On a roll call vote of 6-0, Ordinance No. 1473 passed on first and final reading.

Complete text of Ordinance No. 1473 will be found in Ordinance Book No. 10 at page ~~224~~. 189

ORDINANCE NO. 1474 A BUDGET ORDINANCE AMENDMENT TO PROVIDE FUNDING FOR CONTRACTED CONSTRUCTION FOR THE EAST END/VALLEY STREET PROJECT

9. Consideration was given to a budget ordinance amendment to provide funding for contracted construction for the East End/Valley Street Project.

Mayor McDevitt said this amendment recognizes revenues from land disposals and appropriates the funding available to the East End/Valley Street Project. This will provide $35,000 for contracted construction for the East End/Valley Street Improvement Project.

Mayor McDevitt said members of Council were furnished copies of the ordinance and it would not be read in its entirety.

Councilman Boland moved for the adoption of Ordinance No. 1474. This motion was seconded by Councilman Price.

On a roll call vote of 6-0, Ordinance No. 1474 passed on first and final reading.

Complete text of Ordinance No. 1474 will be found in Ordinance Book No. 10 at page ~~225~~. 190

ORDINANCE NO. 1475 - A BUDGET ORDINANCE AMENDMENT FOR TRANSPORTATION PLANNING

10. Consideration was given to a budget ordinance amendment for transportation planning.

Complete text of Resolution No. 84-190 will be found in Resolution Book No. 15 at page ~~50-59~~. 64 and 65

APPEAL OF MELVIN C. WALSH, JR.'S REQUEST FOR LINE-OF-DUTY DISABILITY RETIREMENT

Mayor McDevitt announced the appeal hearing in the matter of Melvin C. Walsh, Jr.'s. request for line-of-duty disability retirement has been rescheduled until November 13, 1984 at the request of Mr. Melvin C. Walsh and with the consent of his attorney, Mr. Max Cogburn.

AGREEMENT AUTHORIZED WITH THOMAS RIVENS

At the request of the Corporation Counsel, Councilman Price moved to authorize the City Manager to sign an agreement with Mr. Thomas Rivens, providing that the City of Asheville will not appeal the Civil Service Board's ruling relative to Mr. Rivens, and Mr. Rivens would drop his complaint charges against the City of Asheville with the Asheville-Buncombe Community Relation Council. This motion was seconded by Councilman Boland and carried unanimously.

CLAIMS - KEN INGLE (SEWER) - MARILYN LONON (STREETS) - LAURA HAYMORE (WATER)

The City Clerk presented claims received from Ken Ingle (Sewer) - Marilyn Lonon (Streets) and Laura Haymore (Water).

Mayor McDevitt referred the claims to the Corporation Counsel for investigation and recommendation.

LAWSUITS - BETTY AND DONNIE BENSON VS. MARGARET LEWIS AND CITY OF ASHEVILLE (AUTO ACCIDENT) - JAMES E. DAVIS VS. LEE WARREN, BOB MEDFORD, AND WALT ROBERTSON (ALLEDGED VIOLATION OF CIVIL RIGHTS DURING A POLICE INTERROGATION)

The City Clerk said the City was served with a summons in connection with the lawsuits involving Betty and Donnie Benson vs. Margaret Lewis and City of Asheville (Auto Accident) - James E. Davis vs. Lee Warren, Bob Medford, and Walt Robertson (Alleged violation of Civil Rights during a police interogation).

Mayor McDevitt referred the summonses to the Corporation Counsel for investigation and recommendation.

REPORTS FROM MEMBERS OF COUNCIL

Mayor McDevitt requested that Councilman Boland and Vice-Mayor Bratton report on their recent trips to Pittsburgh and Roanoke to members of Council at the Pre-Council meeting on October 23, 1984.

Mayor McDevitt said this ordinance was previously read on first and second reading and would not be reread in its entirety unless there was a specific request to do so.

On a roll call vote of 6-0, Ordinance No. 1470 passed on third reading.

Complete text of Ordinance No. 1470 will be found in Ordinance Book No. 10 at page ~~220.~~ 184 JK

ORDINANCE NO. 1472 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED - PROPERTY LOCATED ON HAYWOOD ROAD

13. Consideration was given to the third reading of Ordinance No. 1472, an ordinance amending Ordinance No. 322, known as "An ordinance providing for the zoning of the City of Asheville," as amended (rezoning property located on Haywood Road).

Mayor McDevitt said this ordinance was previously read on first and second reading and would not be reread in its entirety unless there was a specific request to do so.

On a roll call vote of 6-0, Ordinance No. 1472 passed on third reading.

Complete text of Ordinance No. 1472 will be found in Ordinance Book No. 10 at page ~~223.~~ 187 and 188 JK

RESOLUTION NO. 84-190 - RESOLUTION AMENDING THE TENTH YEAR COMMUNITY DEVELOPMENT BLOCK GRANT ADMINISTRATION BUDGET (CONTRACT SERVICES PROVIDED BY THE ASHEVILLE-BUNCOMBE COMMUNITY RELATIONS COUNCIL)

14. Consideration was given to a resolution amending the Tenth Year Community Development Block Grant Administration Budget (contract services provided by the Asheville-Buncombe Community Relations Council).

Mayor McDevitt said the Asheville-Buncombe Community Relations Council staff has periodically provided staff support contract services to the City of Asheville's Community Development Block Grant program. This resolution will authorize the Mayor to sign all necessary contract agreements by and between the City and Asheville-Buncombe Community Relations Council. This contract in the amount of $25,519 for Asheville-Buncombe Community Relations Council staff service support to monitor and prepare HUD required Environmental Reviews and Labor Standard Reports.

Mayor McDevitt said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Price, seconded by Councilman Boland, Resolution No. 84-190 was unanimously adopted.

Tuesday - October 23, 1984 - 4:00 p.m.

Regular Meeting

Present: Mayor Larry McDevitt, Presiding; Vice-Mayor Wilhelmina Bratton; Councilmen Mary Lloyd Frank, Norma T. Price, Gordon Myers, Walter R. Boland, and Louis Bissette; Corporation Counsel William F. Slawter; City Manager Neal Creighton; Assistant City Manager/City Clerk William F. Wolcott, Jr.

Absent: None

INVOCATION

The invocation was given by Councilman Bissette.

APPROVAL OF THE MINUTES

1. Consideration was given to the approval of the minutes of the October 16, 1984 meeting.

Mayor McDevitt announced the approval of the October 16, 1984, meeting as submitted.

PROCLAMATION - "UNITY WEEK" - OCTOBER 22 - 27, 1984

2. Mayor McDevitt read a proclamation proclaiming October 22-27, 1984, as "Unity Week."

Mayor McDevitt presented the proclamation to Mr. Johnny Hayes, Director of the Asheville Housing Authority Enrichment Program.

RESOLUTION NO. 84-191 - RESOLUTION RECOGNIZING THE PUBLIC WORKS DEPARTMENT AND THE STREET DIVISION FOR OUTSTANDING PERFORMANCE AT THE CITY'S ANNUAL BLOOD DRIVE

3. Consideration was given to a resolution recognizing the Public Works Department and Street Division for outstanding performance at the City's annual blood drive.

The City of Asheville sponsors an annual blood drive in cooperation with the Asheville Area Chapter of the American National Red Cross. This year's drive was held September 10, 1984. During this drive, the employees of the Public Works Department and the Street Division had the highest percentage of participation among the employees.

Mayor McDevitt said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Boland, seconded by Councilman Bissette, Resolution No. 84-191 was unanimously adopted.

Complete text of Resolution No. 84-191 will be found in Resolution Book No. 15 at page 66 1/2.

Mayor McDevitt also announced that Councilman Price would be representing the City of Asheville with the Land-Of-Sky Regional Council in a three-day trip to Lexington, Kentucky and several cities in Virginia relative to proposed developments.

ADJOURNMENT

Councilman Frank moved to adjourn the meeting at 6:15 p.m. This motion was seconded by Councilman Price and carried unanimously.

Larry McDevitt
MAYOR

William F. McLean
CITY CLERK

Steve Goldstein, Attorney representing the Asheville City Board of Education and the Housing Authority, said the petitioners are requesting the closing of the portion of Lyman Street and Dewitt Street in order to increase parking on the school campus for staff. He said this street is not presently open and is only a "paper street".

After discussion, Mayor McDevitt closed the public hearing at 4:29 p.m.

Mayor McDevitt said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Price, seconded by Councilman Frank, Resolution No. 84-194 was unanimously adopted.

Complete text of Resolution No. 84-194 will be found in Resolution Book No. 15 at page ~~63~~ 69 ℄

PUBLIC HEARING - CLOSING AN UNOPENED PORTION OF DEWITT STREET

RESOLUTION NO. 84-195 - RESOLUTION TO CLOSE A PORTION OF DEWITT STREET IN THE CITY OF ASHEVILLE, NORTH CAROLINA

7. A public hearing was held relative to closing an unopened portion of Dewitt Street.

Mayor McDevitt opened the public hearing at 4:30 p.m.

The City Clerk presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Steve Goldstein, Attorney for the Asheville City Board of Education, said this street is also requested to be closed to increase the parking on campus for staff, and is not presently opened but only a "paper street".

After discussion, Mayor McDevitt closed the public hearing at 4:31 p.m.

Mayor McDevitt said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Price, seconded by Councilman Frank, Resolution No. 84-195 was unanimously adopted.

Complete text of Resolution No. 84-195 will be found in Resolution Book No. 15 at page ~~64~~ 70 ℄

PUBLIC HEARING - REZONING PROPERTY LOCATED ON GREENHILL AVENUE

8. A public hearing was held relative to rezoning property located on Greenhill Avenue, requested by the West Asheville Medical Center.

Mayor McDevitt said the Asheville Planning and Zoning Commission at a meeting held October 3, 1984, considered the request of the West Asheville Medical Center that Ward 5, Sheet 19, Portion of Lot 12, be rezoned from R-3 Residential District to CH Commercial Highway District. The property is located on Greenhill Avenue. After review and discussion, the Commission voted to recommend to City Council that Ward 5, Sheet 19, Portion of Lot 12, be rezoned from R-3 Residential District to CH Commercial Highway District.

Mayor McDevitt recognized the employees of the Public Works and the Street Division in attendance at the meeting.

RESOLUTION NO. 84-192 - RESOLUTION RECOGNIZING THE ASHEVILLE AREA CHAPTER OF THE AMERICAN RED CROSS FOR THEIR SERVICE TO THE COMMUNITY

4. Consideration was given to a resolution recognizing the Asheville Area Chapter of the American Red Cross for their service to the community.

Mayor McDevitt read the resolution.

Upon motion of Councilman Frank, seconded by Councilman Price, Resolution No. 84-192 was unanimously adopted.

Complete text of Resolution No. 84-192 will be found in Resolution Book No. 15 at page 61. 67 K

Mayor McDevitt presented the resolution to Marshall Upton with the Asheville Chapter of the American Red Cross.

RESOLUTION NO. 84-193 - RESOLUTION OF APPRECIATION TO THE NORTH CAROLINA COURT OF APPEALS

5. Consideration was given to a resolution of appreciation to the North Carolina Court of Appeals.

Mayor McDevitt read the resolution stating that the North Carolina Court of Appeals is currently in Asheville hearing appeals from Western North Carolina. He said this is a great convenience and cost saver for those of our citizens who have appeals pending before the Court. He said this resolution expresses thanks to the North Carolina Court of Appeals for holding some of its sessions in Asheville and requests the Court to hold additional sessions in Asheville in the future.

Upon motion of Councilman Boland, seconded by Councilman Bissette, Resolution No. 84-193 was unanimously adopted.

Complete text of Resolution No. 84-193 will be found in Resolution Book No. 15 at page 62. 68 K

PUBLIC HEARING - CLOSING UNOPENED PORTION OF LYMAN STREET

RESOLUTION NO. 84-194 - RESOLUTION TO CLOSE A PORTION OF LYMAN STREET IN THE CITY OF ASHEVILLE, NORTH CAROLINA

6. A public hearing was held relative to closing an unopened portion of Lyman Street.

Mayor McDevitt opened the public hearing at 4:21 p.m.

The City Clerk presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Councilman Frank indicated that Council has requested the City Manager to look into the policemen's plan, and to recommend an equitable plan for the future, taking into consideration that the State is combining the LEGRS and LEO retirement plans.

Captain Harold Brownlee, retired police officer, also spoke in support of additional benefits for the retired police officers.

Councilman Myers said Council has a moral obligation to help those people that are getting the least benefits. He also indicated that Council should adopt an overall plan for the retired police officers for the future.

Upon inquiry of Mayor McDevitt, Corporation Counsel Slawter said, in his opinion, there would not be a conflict of interest for Mayor McDevitt voting on this issue because of one of the recipients being his aunt.

Councilman Price moved for the adoption of Ordinance No. 1477. This motion died for the lack of a second.

Councilman Myers moved to adopt a budget ordinance amendment in a sum equal to that which was paid last year, the best information is that the amount is approximately 37,750, whatever that figure is after we review our records, and that the distribution of that amount be in a manner similiar to the method and amount of distribution that was used last year, with reference to these retirees and survivors. This motion was seconded by Councilman Boland.

After Discussion, Councilman Myers motion failed on a roll call vote of 5-2, with Councilman Boland and Councilman Myers Voting "Aye".

Councilman Bissette said he would support a budget amendment allocating 5% of the total current benefits to all recipients, which he understands is approximately $32,000, with the distribution scheduled to be similar to last year.

Councilman Frank moved to adopt a budget ordinance amendment equal to 5% of the current total benefits paid to all receipents, under the Police Pension plan assuming that figure is approximately $32,000, and that Council decide, at a later date, the distribution plan, with the distribution being weighted giving preference to those reciepents making less money. This motion was seconded by Councilman Bissette.

On a roll call vote of 7-0, Ordinance No. 1477 passed on first reading.

Complete text of Ordinance No. 1477 will be found in Ordinance Book No. 10 at Page ~~288~~ 193 ✓

ORDINANCE NO. 1478 - BUDGET ORDINANCE AMENDMENT TO SET OFF REVENUE AND APPROPRIATION FOR A UDAG LOAN TO MAGNETICS INTERNATIONAL

10. Consideration was given to a budget ordinance amendment to set off revenue and appropriation for a UDAG loan to Magnetics International.

Mayor McDevitt said this amendment will set off revenue and appropriation for UDAG Loan to Magnetics International in the amount of $1,205,000. This action appropriates funds for a UDAG loan for a $7.8 million dollar project by Magnetics International which will improve the City's tax base and provide 121 permanent jobs.

Mayor McDevitt opened the public hearing at 4:34 p.m.

The City Clerk presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said the Asheville Planning and Zoning Commission at its meeting held on October 3, 1984, recommended approval of the rezoning, subject to a 50' buffer strip. He said since the Planning and Zoning Commission's recommendation, he received a letter from Wayne Edwards, President of Western Steer Corporation, requesting that the 50' buffer strip be reduced to a 25' buffer strip. He said Western Steer intends to buy the property for additional parking space. He said the 25' buffer would give them at least 10 more parking spaces.

Mr. Wayne Edwards with Western Steer Corporation spoke in support of the rezoning, requesting that the buffer be reduced to 25'. He said they would be willing to plant a buffer of white pines along this buffer strip.

After discussion, Mayor McDevitt closed the public hearing at 4:44 p.m.

After discussion relative to the buffer requirements, Councilman Frank moved to continue consideration of the ordinance until October 30, 1984, giving staff an opportunity to amend the ordinance to reflect Council's intention of adopting the ordinance with the provision that a 25' buffer strip be provided on the northern portion of Lot No. 12, and that adequate buffering be provided on the eastern protion of Lot No. 12, and with the provision that the 25' buffer strip remain zoned R-3 Residential District. This motion was seconded by Councilman Price and carried unanimously.

ORDINANCE NO. 1477 - BUDGET ORDINANCE AMENDMENT TO PROVIDE FUNDING FOR A PAYMENT TO RETIRED POLICE OFFICERS

9. Consideration was given to a budget ordinance amendment to provide funding for a payment to retired police officers.

Mayor McDevitt said this ordinance will set up a separate appropriation for a payment to retired police officeres and survivors. Total cost of 1984/85 supplement to retired and disabled members and survivors of the Asheville Police Pension & Disability Fund is $18,875 which will be provided by use of the General Fund contingency.

Mayor McDevitt said members of Council were furnished copies of the ordinance and it would not be read in its entirety.

Captain John Best, retired police officer, said the retired police officers requested a cost of living increase and they did not request a lump sum payment as is proposed.

Mayor McDevitt said the proposed budget amendment would provide a lump sum payment to retired police officers and survivors currently making $600 or less. He said the distribution plan for the lump sum payment would be similar to last year's plan.

Vice-Mayor Bratton said she would support a five percent (5%) lump sum payment to all retired police officers and survivors.

RESOLUTION NO. 84-199 - RESOLUTION APPOINTING MEMBER TO THE RECREATION BOARD FOR ASHEVILLE (LARRY KIMEL)

15. Consideration was given to a resolution appointing Larry Kimel as a member of the Recreation Board for Asheville.

Upon motion of Councilman Bissette, seconded by Councilman Boland, Resolution No. 84-199 was unanimously adopted.

Complete text of Resolution No. 84-199 will be found in Resolution Book No. 15 at page ~~68.~~ 74

APPOINTMENT - COMMISSIONERS OF THE HOUSING AUTHORITY OF THE CITY OF ASHEVILLE HUNTER V. WATSON AND JESSE RAY, SR.)

16. Mayor McDevitt announced the reappointment of Hunter V. Watson and Jesse Ray, Sr. as Commissioners of the Housing Authority of the City of Asheville, terms expiring June 11, 1989.

RESOLUTION NO. 84-200 - RESOLUTION APPOINTING MEMBER OF THE CITY OF ASHEVILLE BOARD OF ALCOHOLIC CONTROL (J. W. BYERS)

17. Consideration was given to a resolution appointing J. W. Byers as a member of the City of Asheville Board of Alcoholic Control

Upon motion of Councilman Frank, seconded by Vice-Mayor Bratton, Resolution No. 84-200 was unanimously adopted.

Complete text of Resolution No. 84-200 will be found in Resolution Book No. 15 at page ~~69.~~ 75

SCHEDULING PUBLIC HEARING - SITE PLAN FOR PROPOSED "WIND IN THE OAKS CONDOMINIUMS"

Councilman Bissette moved to schedule a public hearing relative to the site plan for the proposed "Wind in the Oaks Condominiums" to be located off Windswept Drive for November 13, 1984. This motion was seconded by Councilman Myers and carried unanimously.

CLAIMS - MRS. WARES (SENIOR OPPORTUNITY CENTER) - KEN McDONALD (WATER)

The City Clerk presented claims received from Mrs. Wares and Ken McDonald.

Mayor McDevitt referred the claims to the Corporation Counsel for investigation and recommendation.

ORDINANCE NO. 1479 - AN ORDINANCE AMENDING ORDINANCE NO. 1226 REGARDING DOG LICENSE TAX

18. Consideration was given to an ordinance amending Ordinance No. 1226 regarding dog license tax.

Mayor McDevitt read the ordinance outlining the proposed fee schedule.

Councilman Frank moved for the adoption of Ordinance No. 1479. This motion was seconded by Councilman Boland.

Mayor McDevitt said members of Council were furnished copies of the ordinance and it would not be read in its entirety.

Councilman Boland moved for the adoption of Ordinance No. 1478. This motion was seconded by Councilman Price.

On a roll call vote of 7-0, Ordinance No. 1478 passed on first and final reading.

Complete text of Ordinance No. 1478 will be found in Ordinance Book No. 10 at page ~~229.~~ 144 JC

MOTION - UDAG LOAN REPAYMENTS

11. Councilman Price moved that all existing and future UDAG loan repayments, principal and interest, be retained in the UDAG fund and not appropriated or earmarked for any purpose until such time as Council has established, by ordinance, a policy for their use. This motion was seconded by Vice-Mayor Bratton and carried unanimously.

RESOLUTION NO. 84-196 - RESOLUTION APPOINTING MEMBER TO THE ASHEVILLE TREE COMMISSION (BETH CARROLL)

12. Consideration was given to a resolution appointing Beth Carroll to the Asheville Tree Commission.

Upon motion of Councilman Frank, seconded by Councilman Price, Resolution No. 84-196 was unanimously adopted.

Complete text of Resolution No. 84-196 will be found in Resolution Book No. 15 at page ~~65.~~ 71 JC

RESOLUTION NO. 84-197 - RESOLUTION APPOINTING MEMBER TO THE ASHEVILLE TREE COMMISSION (ROGER T. SMITH)

13. Consideration was given to a resolution appointing Roger T. Smith as a member of the Asheville Tree Commission.

Upon motion of Councilman Frank, seconded by Councilman Price, Resolution No. 84-197 was unanimously adopted.

Complete text of Resolution No. 84-197 will be found in Resolution Book No. 15 at page ~~66.~~ 72 JC

RESOLUTION NO. 84-198 - RESOLUTION APPOINTING MEMBER TO THE RECREATION BOARD FOR ASHEVILLE (SHERMAN WILLIAMS)

14. Consideration was given to a resolution appointing Sherman Williams as a member of the Recreation Board for Asheville.

Upon motion of Councilman Bissette, seconded by Councilman Boland, Resolution No. 84-198 was unanimously adopted.

Complete text of Resolution No. 84-198 will be found in Resolution Book No. 15 at page ~~67.~~ 73 JC

Tuesday - October 30, 1984 - 4:00 p.m.

Regular Meeting

Present: Mayor Larry McDevitt, Presiding; Councilmen Mary Lloyd Frank, Norma T. Price, Gordon Myers, Walter R. Boland, and Louis Bissette; Corporation Counsel William F. Slawter; City Manager Neal Creighton; Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Vice-Mayor Wilhelmina Bratton.

INVOCATION

The invocation was given by Councilman Norma T. Price.

APPROVAL OF THE MINUTES

1. Approval of the minutes of October 23, 1984 meeting.

Mayor McDevitt announced the approval of the minutes of the October 23, 1984, meeting as submitted.

PROCLAMATION - "UNC-A ATHLETIC MONTH" - NOVEMBER, 1984

Mayor McDevitt read a proclamation proclaiming the month of November, 1984, as "UNC-Asheville Athletic Month."

Mayor McDevitt presented the proclamation to Jerry Greene, Basketball Coach for UNC-A, and others in attendance.

RESOLUTION NO. 84-201 - RESOLUTION OF APPRECIATION TO CAPTAIN WILLIAM G. MITCHELL

2. Consideration was given to a resolution of appreciation to Captain William G. Mitchell.

Mayor McDevitt noted that Captain Mitchell was employed with the City of Asheville since 1958 in the Fire Department, and retired from his post as Captain on May 1, 1984.

Upon motion of Councilman Price, seconded by Councilman Myers, Resolution No. 84-201 was unanimously adopted.

Complete text of Resolution No. 84-201 will be found in Resolution Book No. 15 at page 70, 76 & 78.

ORDINANCE NO. 1480 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED - PROPERTY IS LOCATED ON GREENHILL AVENUE (WEST ASHEVILLE MEDICAL CENTER PETITION)

3. Further consideration was given to an ordinance amending Ordinance No. 322, known as "an ordinance providing for the zoning of the City of Asheville" as amended. (Rezoning property located on Greenhill Avenue, requested by the West Asheville Medical Center.)

On a roll call vote of 6-1, Ordinance No. 1479 passed on first reading, with Mayor McDevitt voting "no".

RALPH BISHOP - LOTTERY SALES IN THE CITY OF ASHEVILLE

Mr. Ralph Bishop again spoke to members of Council relative to the lottery sales in the City of Asheville, and his difficulty in obtaining records from the Police Pension Board.

Upon motion, the meeting adjourned at 6:00 p.m.

Larry McDevitt
MAYOR

William F. Holcutt
CITY CLERK

RESOLUTION NO. 84-203 - RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN AN AGREEMENT WITH FREDRICKSON MOTOR EXPRESS CORPORATION FOR THE PURPOSE OF LEASING SPACE ON THE CITY'S RADIO TOWER AT PEACH KNOB

6. Consideration was given to a resolution authorizing the City Manager to sign an agreement with Fredrickson Motor Express Corporation for the purpose of leasing space on the City's radio tower at Peach Knob.

Mayor McDevitt said the City of Asheville owns and operates a two-way FM radio system. Frederickson Motor Express Corporation desires to lease space from the City on part of its system at Peach Knob, for the purpose of establishing a radio communications network. The City of Asheville and Fredrickson Motor Express Corporation have mutually agreed to the conditions for such a lease.

This agreement will generate revenues for the City of Asheville in the amount of $1,200.00 annually. It will cost approximately $8.00 per month for electrical service.

Mayor McDevitt said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Frank, seconded by Councilman Myers, Resolution No. 84-203 was unanimously adopted.

Complete text of Resolution No. 84-203 will be found in Resolution Book No. 15 at page 72, 71 X

PRESENTATION BY KENILWORTH RESIDENTS ASSOCIATION

7. Mayor McDevitt said members of Council were furnished a copy of a "Kenilworth Report" by the Kenilworth Residents Association several months ago.

Augusta Young, President of the Kenilworth Residents Association, introduced Mr. Bill Moore, Past President of the Association, who presented Council with the official report of the Kenilworth Residents Association. He said this report is a result of a great deal of effort on the part of the residents of the Kenilworth area to deal with the community's progress and development in the future. He said the residents would like for Council to accept their report and use it for future guidance in dealing with Kenilworth matters. He also requested that a copy of the Kenilworth report be transmitted to the Planning and Zoning Commission requesting that they also use this as a guideline in dealing with Kenilworth area matters.

Mayor McDevitt thanked the Kenilworth Residents Association for their report. He said the report had been submitted to the staff for review and that a special work session of Council would be held to review the report in depth.

He said the Council work session would be held on December 13, 1984 at 5:30 p.m. in the Council Conference Room.

Upon inquiry of Mr. Moore, Mayor McDevitt said he felt members of Council could address individual concerns in the report after the work session by members of Council. He said he anticipated that Council should have some concrete answers by the first of the year.

Mayor McDevitt said the Asheville Planning and Zoning Commission at a meeting held October 3, 1984, considered the request of the West Asheville Medical Center that Ward 5, Sheet 19, Portion of Lot 12, be rezoned from R-3 Residential District to CH Commercial Highway District. The property is located on Greenhill Avenue. After review and discussion, the Commission voted to recommend to City Council that Ward 5, Sheet 19, Portion of Lot 12, be rezoned from R-3 Residential District to CH Commercial Highway District. This ordinance was considered on October 16, 1984, and action was postponed until October 30.

Verl Emrick, Director of Planning, said the ordinance had been amended to reflect Council's intention of adoption of the ordinance with buffering requirements.

Councilman Boland moved for the adoption of Ordinance No. 1480. This motion was seconded by Councilman Frank.

On a roll call vote of 6-0, Ordinance No. 1480 passed on first reading.

Councilman Boland moved to suspend the rules and proceed to the second reading of Ordinance No. 1480. This motion was seconded by Councilman Myers and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1480 passed on second reading.

RESOLUTION NO. 84-202 - RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN AN AGREEMENT WITH ANSEL'S REFRIGERATION COMPANY FOR THE PURPOSE OF LEASING SPACE ON THE CITY'S RADIO TOWER AT PEACH KNOB

5. Consideration was given to a resolution authorizing the City Manager to sign an agreement with Ansel's Refrigeration Company for the purpose of leasing space on the City's radio tower at Peach Knob.

Mayor McDevitt said the City of Asheville owns and operates a two-way FM radio system. Ansel's Refrigeration Company desires to lease space from the City on part of its system at Peach Knob, for the purpose of establishing a radio communications network. The City of Asheville and Ansel's Refrigeration Company have mutually agreed to the conditions for such a lease.

This contract will generate approximately $1,200.00 annually in revenue for the City. The City will provide electrical service for the transmitter at a cost of approximately $8.00 per month.

Mayor McDevitt said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Boland, seconded by Councilman Price, Resolution No. 84-202 was unanimously adopted.

Complete text of Resolution No. 84-202 will be found in Resolution Book No. 15 at page 71, 77 ~~71~~.

A discussion was held relative to the qualifications for the animal control officers. Councilman Price requested that the Buncombe County Humane Society submit their suggestions for qualifications of an Animal Control Officer to the City Manager.

Councilman Boland requested that the Corporation Counsel determine the feasibility of including in the ordinance a provision that animals cannot be sold or given for medical experiments.

Mayor McDevitt said members of Council were furnished copies of the ordinance and it would not be read in its entirety.

Councilman Price moved for the adoption of Ordinance No. 1481. This motion was seconded by Councilman Boland.

On a roll call vote of 6-0, Ordinance No. 1481 passed on first reading.

Councilman Boland also requested that the Corporation Counsel consider including in the ordinance a provision relative to cruelty to animals.

SALE OF DISPOSAL PARCEL NO. 38 - DISPOSAL PARCEL NO. 174

10. Consideration was given to a motion approving the sale of Disposal Parcel No. 38 in the East End/Valley Street Community Improvement Area and Disposal Parcel No. 174 in the East Riverside Renewal Project.

Mayor McDevitt said the Housing Authority has tentatively accepted the following bids for Disposal Parcel No. 38 in the East End/Valley Street Community Improvement Area and Disposal Parcel No. 174 in the East Riverside Renewal Project:

Reuse	Price	Bid	Redeveloper
East End/Valley St./ Residental	300.00	300.00	Tommie & Elizabeth White
East Riverside/ Residental	2,200.00	2,200.00	Ketery Woods

Lot 38 is located at the intersection of Martin Luther King, Jr. Drive and South Charlotte Street. It is a residental lot sale to an adjacent property owner to provide additional parking space for a proposed nursery.

Lot 174 is a residental lot sale for a single-family structure under the Incentive Housing Program and is located on Congress Street.

Councilman Boland moved to approve the sale of Disposal Parcel Nos. 38 and 174 as recommended by the Housing Authority. This motion was seconded by Councilman Frank and carried unanimously.

BIDS - BULK SODIUM CHLORIDE (ROCK SALT) FOR SNOW AND ICE CONTROL

11. Consideration was given for bulk sodium chloride (rock salt) for snow and ice control.

ORDINANCE NO. 1479 - AN ORDINANCE AMENDING ORDINANCE NO. 1226 REGARDING DOG LICENSE TAX

8. Consideration was given to the second reading of Ordinance No. 1479, an ordinance amending Ordinance No. 1226 regarding dog license tax.

Mayor McDevitt said this ordinance will change the licensing schedule for registering dogs. He said the ordinance was read on first reading on October 23, 1984.

At the request of the Corporation Counsel, Councilman Price moved to amend Ordinance No. 1479 to include the following "provided, however, that the owner or keeper of each dog which becomes subject to registration on or after July 1 of each calendar year, shall be charged a registration fee which is one-half of the schedule." This motion was seconded by Councilman Bissette and carried unanimously.

Upon inquiry of a citizen, referring to spayed and unspayed animals, Corporation Counsel Slawter said the dog licensing tax is collected through the Property Tax Division and included on the form is a statement signed by the property owners stating that the information is true and correct.

Mayor McDevitt said he was concerned that the license schedule fee is too high and would result in more unlicensing of dogs.

Mayor McDevitt said it was his understanding that the Buncombe County Humane Society had researched the licensing schedules for dog registrations. He requested that the City Manager obtain that information from the Buncombe County Humane Society. He said he would like to know what communities the Buncombe County Humane Society reviewed, how the community registers dogs, and what licensing structure they have.

Mayor McDevitt said this ordinance was previously read on first reading and would not be reread in its entirety unless there was a specific request to do so.

On a roll call vote of 5-1, Ordinance No. 1479 passed on second reading, with Mayor McDevitt voting "no."

ORDINANCE NO. 1481 - AN ORDINANCE AMENDING CHAPTER 5 (ANIMALS AND FOWLS) OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE

9. Consideration was given to an ordinance amending Chapter 5 (Animals and Fowls) of the Code of Ordinance of the City of Asheville.

Mayor McDevitt said this ordinance will provide regulations for keeping of animals and fowls in the City of Asheville. Public comments were received relative to this proposed ordinance on October 16, 1984.

It is anticipated that additional manpower will be required for the enforcement of this ordinance.

Mayor McDevitt noted the changes that had been made in the proposed ordinance since the public hearing date of October 16, 1984. He said Council's main objective in adoption of this ordinance is to address problems caused by certain animals in the City of Asheville.

Upon motion of Councilman Frank, seconded by Councilman Boland, Resolution No. 84-204 was unanimously adopted.

Complete text of Resolution No. 84-204 will be found in Resolution Book No. 15 at page 79, 79 ~~9~~

RESOLUTION NO. 84-205 - RESOLUTION AUTHORIZING THE MAYOR TO SIGN AN AGREEMENT BETWEEN THE CITY OF ASHEVILLE, THE COUNTY OF BUNCOMBE, AND THE BUNCOMBE COUNTY BOARD OF TAX SUPERVISION FOR THE PURPOSE OF TRANSFERRING THE ASSETS OF THE BOARD TO BUNCOMBE COUNTY

13. Consideration was given to a resolution authorizing the Mayor to sign an agreement between the City of Asheville, the County of Buncombe, and the Buncombe County Board of Tax Supervision for the purpose of transferring the assets of the Board to Buncombe County.

Mayor McDevitt said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Corporation Counsel Slawter read the resolution stating that the Buncombe County Board of Tax Supervision is the owner of various properties and assets held in connection with, pertaining to or derived from taxes or assessments due the City, the County, or political subdivisions thereof. He said Chapter 1279 of the 1981 North Carolina Session Laws dissolved the Buncombe County Board of Tax Supervision effective November 6, 1984. He said the County of Buncombe has agreed to carry out the responsibilities of said Board. He said it is necessary to transfer the assets of said Board and all records pertaining thereto for purposes of securing the records of said Board and otherwise carrying out the responsibilities as the same relates to the collection of taxes and such other actions as previously granted to the Board. He said this resolution would authorize the Mayor to sign an agreement between the City of Asheville, the County of Buncombe, and the Buncombe County Board of Tax Supervision for the purpose of transferring assets of the Board to Buncombe County.

Upon motion of Councilman Price, seconded by Councilman Boland, Resolution No. 84-205 was unanimously adopted.

Complete text of Resolution No. 84-205 will be found in Resolution Book No. 15 at page 80, 80 ~~9~~

RESOLUTION NO. 84-206 - RESOLUTION AUTHORIZING THE MAYOR TO SIGN A CONTRACT FOR FIRE PROTECTION SERVICES WITH THE VETERANS ADMINISTRATION MEDICAL CENTER AT OTEEN

14. Consideration was given to a resolution authorizing the Mayor to sign a contract for fire protection services with the Veterans Administration Medical Center at Oteen.

Mayor McDevitt read the resolution stating that this would authorize him to sign an agreement with the Veterans Administration Medical Center to provide fire protection services to the VA Hospital through December 31, 1984.

Upon motion of Councilman Price seconded by Councilman Frank, Resolution No. 84-206 was unanimously adopted.

Complete text of Resolution No. 84-206 will be found in Resolution Book No. 15 at page 81, 81 ~~9~~

Mayor McDevitt said sealed bids were received for a term purchase contract to furnish the City's requirements for bulk sodium chloride for snow and ice control for the Winter of 1984-85. Five bids were received. Recommendation was to award the bid to the low bidder, Domtar Industries, Inc., Sifto Salt Division for an estimated contract amount of $21,300. Purchases will be made as required.

The funds for this project are currently budgeted in the Public Works Department operating budget.

The City Clerk presented the Bid Summary Sheet which included:

Bidder	Bid
Domtar Industries, Inc.	$21,300.00
International Salt Company	$21,540.00
Morton Salt Company	$22,230.00
Diamond Crystal	$25,440.00
Cargill Salt Company	$28.860.00

Councilman Frank moved to approve the bid of Domtar Industries, Inc., Sifto Salt Division for bulk sodium chloride (rock salt) for snow and ice control for the Winter of 1984-85. This motion was seconded by Councilman Price and carried unanimously.

SCHEDULING PUBLIC HEARING - AMENDING ZONING ORDINANCE RELATIVE TO KENNELS

12. Councilman Price moved to schedule a public hearing relative to amending the Zoning Ordinance to provide the definition of kennels to the ordinance and prohibiting kennels in all residential zones within the jurisdiction of the ordinance for November 13, 1984. This motion was seconded by Councilman Bissette and carried unanimously.

RESOLUTION NO. 84-204 - RESOLUTION AUTHORIZING THE MAYOR ON BEHALF OF THE CITY OF ASHEVILLE TO EXECUTE AN AGREEMENT AMENDING THE LEASE SIGNED BETWEEN THE CITY OF ASHEVILLE AND BRUCE C. JONES AND WIFE, MARTHA G. JONES

13. Consideration was given to a resolution authorizing the Mayor on behalf of the City of Asheville to execute an agreement amending the lease signed between the City of Asheville and Bruce C. Jones and wife, Martha G. Jones.

Mayor McDevitt said members of Council were furnished copies of the resolution and it would not be read in its entirety.

City Attorney, William Slawter read the resolution stating that the City of Asheville executed an agreement with Bruce and Martha Jones for the lease of a parking lot on property owned by the Jones at the corner of Eagle Street and Biltmore Avenue. The parcel within this parking lot is located as part of the Pack Plaza Redevelopment Plan. The City of Asheville has contracted the Housing Authority of the City of Asheville to implement the Pack Plaza Redevelopment Plan by acquisition of those parcels within the redevelopment plan. The City of Asheville desires to further the acquisition process of this parcel by amending the lease agreement with Bruce and Martha Jones. He said this resolution will authorize the Mayor to sign an amendment to the lease agreement for the property located at the intersection of Biltmore Avenue and Eagle Street to provide that either party may terminate the lease upon ten days notice.

Tuesday - November 6, 1984 - 4:00 p.m.

Regular Meeting

Present: Mayor Larry McDevitt, Presiding; Vice-Mayor Wilhelmina Bratton; Councilmen Mary Lloyd Frank, Norma T. Price, Gordon Myers, Walter R. Boland, and Louis Bissette; Corporation Counsel William F. Slawter; City Manager Neal Creighton; Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: None.

INVOCATION

The invocation was given by Mayor Larry McDevitt.

APPROVAL OF THE MINUTES

1. Approval of the minutes of the October 30, 1984 meeting.

Mayor McDevitt announced the approval of the minutes of the October 30, 1984, meeting with the correction of one typographical error on page 246, changing the word "support" to "report."

PROCLAMATION - "YOUTH APPRECIATION WEEK" - NOVEMBER 4 - 10, 1984

2. Mayor McDevitt read a proclamation proclaiming the week of November 4-10, 1984, as "Youth Appreciation Week."

Mayor McDevitt presented the proclamation to Tim Hensley, with the Asheville Buncombe Youth Council.

ORDINANCE NO. 1479 - AN ORDINANCE AMENDING ORDINANCE NO. 1226 REGARDING DOG LICENSE TAX

3. Consideration was given to the third reading of Ordinance No. 1479 - An ordinance amending Ordinance No. 1226 regarding Dog License Tax.

Mayor McDevitt said this ordinance will change the licensing tax schedule for registering dogs. This ordinance was read on first reading on October 23, 1984, and second reading on October 30, 1984. This action will increase the Dog License revenue by approximately $12,000.

On a roll call vote of 5-2, Ordinance No. 1479 passed on third and final reading, with Mayor McDevitt and Vice-Mayor Bratton voting "No."

Complete text of Ordinance No. 1479 will be found in Ordinance Book No. 10 at page ~~230.~~ 195 ℓ

CLAIMS - COMMERCIAL CARRIERS (POLICE) - MATTHEW MILLER (SANITATION)

The City Clerk presented claims received from Commercial Carriers (Police) and Matthew Miller (Sanitation).

Mayor McDevitt referred the claims to the Corporation Counsel for investigation and recommendation.

RALPH BISHOP - OPPOSITION TO CONSULTANT CONTRACT FOR PRODUCTIVITY

Ralph Bishop spoke to members of Council in opposition to a consultant contract for a productivity report.

ADJOURNMENT TO EXECUTIVE SESSION

Councilman Boland moved to adjourn to Executive Session to discuss a legal matter. This motion was seconded by Councilman Bissette and carried unanimously.

Larry McDevitt
MAYOR

William F. Malsbury
CITY CLERK

In response to Councilmembers, Corporation Counsel Slawter said he had checked with the Buncombe County Animal Shelter, and not only do they themselves not sell animals or dispose of them for experimental purposes, they are not aware of any use such as that being made by people who redeem any animals from the Pound in the normal course of activities. They do not specifically have any limiting provisions anymore than they limit a child who comes in and redeems a puppy. They do have a policy that they would not allow redemption of animals if they knew they were going to be used for experimental purposes.

Upon inquiry of a citizen, Mayor McDevitt said the provisions for kennels in residential areas would be dealt with during a public hearing on November 13, 1984.

On a roll call vote of 7-0, Ordinance No. 1481 passed on second reading, as amended.

SCHEDULING PUBLIC HEARING - PACK PLAZA REDEVELOPMENT PROJECT

6. Councilman Price moved to schedule a public hearing relative to the site plan of the proposed Pack Plaza Redevelopment Project for November 27, 1984.

This motion was seconded by Councilman Myers and carried unanimously.

RESOLUTION NO. 84-207 - RESOLUTION AUTHORIZING THE CITY MANAGER TO HAVE THE AUTHORITY TO ANNUALLY RENEW A MEMORANDUM OF UNDERSTANDING BY AND BETWEEN THE CITY OF ASHEVILLE AND THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION PERTAINING TO SNOW AND ICE CONTROL ON CERTAIN STATE SYSTEM STREETS

Consideration was given to a resolution authorizing the City Manager to have the authority to annually renew a Memorandum of Understanding by and between the City of Asheville and the North Carolina Department of Transportation pertaining to snow and ice control on certain State System streets.

Mayor McDevitt read the resolution, stating that Resolution No. 80-192 authorizing the City Manager to execute a Memorandum of Understanding between the City of Asheville and the North Carolina Department of Transportation as to which State System streets the City would assume responsibility for snow and ice control and the methods by which the North Carolina Department of Transportation would reimburse the City for materials used in performing snow and ice control on the specific streets. The Memorandum of Understanding provided that it is renewable by mutual agreement between the City of Asheville and the North Carolina Department of Transportation on an annual basis. Resolution No. 80-192 did not authorize the City Manager to execute annual renewals of Memorandums of Understanding. This resolution will authorize the City Manager to determine on an annual basis whether the Memorandum of Understanding between the City of Asheville and North Carolina Department of Transportation for the City to perform snow and ice control on certain State System streets, and it will authorize him to execute the appropriate documents to renew the Memorandum of Understanding.

Upon motion of Councilman Frank, seconded by Councilman Boland, Resolution No. 84-207 was unanimously adopted.

Complete text of Resolution No. 84-207 will be found in Resolution Book No. 15 at page 76.

ORDINANCE NO. 1480 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED - (REZONING PROPERTY LOCATED ON GREENHILL AVENUE (WEST ASHEVILLE MEDICAL CENTER PETITION)

4. Consideration was given to a third reading of Ordinance No. 1480, an ordinance amending Ordinance No. 322, known as "An ordinance providing for the zoning of the City of Asheville," as amended, rezoning property located on Greenhill Avenue, requested by the West Asheville Medical Center.

Mayor McDevitt said the Asheville Planning and Zoning Commission at a meeting held October 3, 1984, considered the request of the West Asheville Medical Center that Ward 5, Sheet 19, Portion of Lot 12, be rezoned from R-3 Residential District to CH Commercial Highway District. The property is located on Greenhill Avenue. After review and discussion, the Commission voted to recommend to City Council that Ward 5, Sheet 19, Portion of Lot 12, be rezoned from R-3 Residential District to CH Commercial Highway District. This ordinance was considered on October 16, 1984, and action was postponed until October 30. This ordinance was read on first and second reading on October 30, 1984.

Mayor McDevitt said this ordinance was previously read on first and second reading and would not be reread in its entirety unless there was a specific request to do so.

On a roll call vote of 7-0, Ordinance No. 1480 passed on third and final reading.

Complete text of Ordinance No. 1480 will be found in Ordinance Book No. 10 at page ~~231.~~ 196 and 197

ORDINANCE NO. 1481 - AN ORDINANCE AMENDING CHAPTER 5 (ANIMALS AND FOWLS) OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE

5. Mayor McDevitt said this ordinance will provide regulations for keeping of animals and fowls in the City of Asheville. Public comments were received relative to the proposed ordinance on October 16, 1984. This ordinance was read on first reading on October 30, 1984. It is anticipated that additional manpower will be required for the enforcement of this ordinance.

Mayor McDevitt said this ordinance was previously read on first reading and would not be reread in its entirety unless there was a specific request to do so.

Councilman Price moved to amend Section 5-2 (8) of Ordinance No. 1481 to read as follows: "Kennel - any premises wherein any person engages in the business of boarding, breeding, buying, letting for hire, training for a fee, or selling dogs or cats. A kennel shall constitute the keeping of the seven (7) or more dogs or cats on the same premises without a current written permit issued pursuant to Chapter 5, Article 5, Section 5-9 of the Code of Ordinances." This motion was seconded by Councilman Frank and carried unanimously.

Tuesday - November 13, 1984 - 4:00 p.m.

Regular Meeting

Present: Mayor Larry McDevitt, Presiding; Vice-Mayor Wilhelmina Bratton; Councilmen Mary Lloyd Frank, Norma T. Price, Walter R. Boland, and Louis Bissette; Corporation Counsel William F. Slawter; City Manager Neal Creighton; Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Councilman Gordon Myers.

INVOCATION

The invocation was given by Councilman Norma Price.

APPROVAL OF THE MINUTES - NOVEMBER 6, 1984

1. Approval of the minutes of the November 6, 1984, meeting.

Mayor McDevitt announced the approval of the minutes of the November 6, 1984, meeting as submitted.

PROCLAMATION - "ALZHEIMER'S DISEASE MONTH" - NOVEMBER, 1984

2. Mayor McDevitt read a proclamation proclaiming the month of November, 1984, as "Alzheimer's Disease Month."

PROCLAMATION - "SERVICE CORPS OF RETIRED EXECUTIVES MONTH" - NOVEMBER, 1984

2A. Mayor McDevitt read a proclamation proclaiming the month of November, 1984, as "Service Corps of Retired Executives Month."

Mayor McDevitt presented the proclamation to Joseph Hewitt.

PUBLIC HEARING - SITE PLAN OF "WIND IN THE OAKS CONDOMINIUMS" - WINDSWEPT DRIVE

3. A public hearing was held relative to the site plan of the proposed "Wind in the Oaks Condominiums" to be located off Windswept Drive.

Mayor McDevitt opened the public hearing at 4:20 p.m.

Mayor McDevitt said the Asheville Planning and Zoning Commission at a meeting held October 17, 1984, reviewed the site plan of the proposed "Wind in the Oaks Condominiums" to be located off Windswept Drive. The plan was prepared by Ken Pankow, Engineer, for Roger Jones and Marshall Kanner, Developers, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of the site plan to City Council subject to compliance with the Erosion Control Ordinance.

The City Clerk presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said this project would consist of 48 units, in two phases, on five acres located off Windswept Drive.

REMOVAL OF POLITICAL SIGNS

Councilman Price requested that all political signs be removed as soon as possible.

CITY COUNCIL WORK SESSION - NOVEMBER 8, 1984, - 5:30 P.M.

Mayor McDevitt announced that there would be a City Council work session on November 8, 1984, at 5:30 p.m.

CLAIMS - JEREMY AIKEN (REID CENTER) - MRS. CHIRGOTIS (NORTH ASHEVILLE COMMUNITY CENTER) - JOAN PRESSLEY (SEWER) - BEVERLY RUSSELL (WATER) - CARLOS SMITH (SHILOH CENTER)

The City Manager presented claims received from Jeremy Aiken, Mrs. Chirgotis, Joan Pressley, Beverly Russell, and Carlos Smith.

Mayor McDevitt referred the claims to the Corporation Counsel for investigation and recommendation.

LAWSUITS - CLAYTON W. LEWIS AND JAMES WHITWORTH

The City Manager said the City was served with summonses in connection with lawsuits involving Clayton W. Lewis and James Whitworth.

Mayor McDevitt referred the summonses to the Corporation Counsel for investigation and recommendation.

RALPH BISHOP - ADDRESS TO COUNCILMEMBERS

Ralph Bishop spoke to Council relative to his right to address members of Council.

ADJOURNMENT

Upon motion of Councilman Myers, seconded by Councilman Frank, the meeting adjourned at 4:30 p.m.

Larry McDevitt
MAYOR

William F. Walcott
CITY CLERK

Mayor McDevitt read the proposed ordinance.

Mayor McDevitt closed the public hearing at 4:37 p.m.

Councilman Price moved for the adoption of Ordinance No. 1482. This motion was seconded by Vice-Mayor Bratton.

On a roll call vote of 6-0, Ordinance No. 1482 passed on first reading.

RESOLUTION NO. 84-208 - RESOLUTION APPOINTING MEMBER TO THE RECREATION BOARD FOR ASHEVILLE (LUCILLE CALDWELL)

5. Consideration was given to a resolution appointing Lucille Caldwell as a member of the Recreation Board.

Mayor McDevitt said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Vice-Mayor Bratton, seconded by Councilman Boland, Resolution No. 84-208 was unanimously adopted.

Complete text of Resolution No. 84-208 will be found in Resolution Book No. 15 at page 77. 13 9

RESOLUTION NO. 84-209 - RESOLUTION APPOINTING A MEMBER TO THE ASHEVILLE-BUNCOMBE INSURANCE ADVISORY COMMITTEE (MRS. SUSIE FARNAM)

6. Consideration was given to a resolution appointing Mrs. Susie Farnam as a member of the Asheville-Buncombe Insurance Advisory Committee.

Mayor McDevitt said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Bissette, seconded by Councilman Frank, Resolution No. 84-209 was unanimously adopted.

Complete text of Resolution No. 84-209 will be found in Resolution Book No. 15 at page 78. 14 9

RESOLUTION NO. 84-210 - RESOLUTION APPOINTING A MEMBER TO THE ASHEVILLE-BUNCOMBE INSURANCE ADVISORY COMMITTEE (MR. DON PATTON)

6A. Consideration was given to a resolution appointing Mr. Don Patton as a member of the Asheville-Buncombe Insurance Advisory Committee.

Mayor McDevitt said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Bissette, seconded by Councilman Frank, Resolution No. 84-210 was unanimously adopted.

Complete text of Resolution No. 84-210 will be found in Resolution Book No. 15 at page 79. 15 9

By the use of a map, Mr. Emrick showed the location of the proposed project. He said the Planning and Zoning Commission expressed interest in erosion control of the project. He said they recommended approval of the project subject to compliance with the Erosion Control Ordinance. He said the Fire Department requested that water supply for the project be provided by an eight-inch line, and that an additional fire hydrant be provided. He said the Commission also addressed access to the project. He said it was recommended that Windswept Road from the new road to the paved portion be paved. He said, at present, the City does not have a right-of-way for this road. He said Grover Redmond, owner of the property, said he would dedicate the property, and would grant a right-of-way for the opening of this road. He said the developers have requested that the City share in the cost of opening this road.

Upon inquiry of Mayor McDevitt, Mr. Emrick said the approval of the site plan for the "Wind in the Oaks Condominiums" project is not contingent upon this right-of-way being granted or the road being opened. He said the staff felt the area could accommodate additional units. However, it would be preferable to have two entrances to the project. Mr. Emrick, in addressing erosion control, said the developer plans to have water run-off come off of the internal system to the northern portion of the property.

Mr. Tom West, a resident in the area, said the residents would prefer an entrance at the existing intersection.

David Matney, Attorney for the developer, spoke in support of the project, and also addressed the need for an entrance at the existing intersection.

Mayor McDevitt noted that if Council approves the site plan, the developer should not in any way assume that Council will participate in any road construction in the area.

After discussion, Mayor McDevitt closed the public hearing at 4:33 p.m.

Councilman Boland moved to approve the site plan of the proposed "Wind in the Oaks Condominiums" to be located off Windswept Drive subject to compliance with the Erosion Control Ordinance. This motion was seconded by Councilman Frank and carried unanimously.

PUBLIC HEARING - AMENDING ZONING ORDINANCE RELATIVE TO KENNELS

ORDINANCE NUMBER 1482 - AN ORDINANCE AMENDING APPENDIX A (ZONING) OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE

4. A public hearing was held relative to amending the Zoning Ordinance known as "An ordinance providing for the zoning for the City of Asheville, as amended," relative to kennels.

Mayor McDevitt said this amendment will add the definition of a kennel to Section 30-2-1 and prohibit kennels in R-1 through R-5 Residential District.

Mayor McDevitt opened the public hearing at 4:34 p.m.

The City Clerk presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Corporation Counsel Slawter said it had become necessary to include the definition of kennels in several ordinances that are presently in effect.

Upon motion of Councilman Price, seconded by Councilman Frank, Resolution No. 84-213 was unanimously adopted.

Complete text of Resolution No. 84-213 will be found in Resolution Book No. 15 at page 82.

RESOLUTION NO. 84-214 - RESOLUTION ABANDONING SOUTH CHARLOTTE STREET AS A CITY SYSTEM STREET PURSUANT TO A REQUEST BY THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION

9. Consideration was given to a resolution abandoning South Charlotte Street as a City System Street pursuant to a request by the North Carolina Department of Transportation.

Mayor McDevitt said South Charlotte Street was formerly Valley Street. The North Carolina Department of Transportation has officially completed the Valley Street Project. That portion of Old Valley Street which is now known as South Charlotte Street should become a state system street. There will be a reduction in expenditures for street maintenance as well as a reduction in revenues from Powell Bill. The reductions will be near the same so no positive or negative effect should occur.

Mayor McDevitt said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Frank, seconded by Councilman Price, Resolution No. 84-214 was unanimously adopted.

Complete text of Resolution No. 84-214 will be found in Resolution Book No. 15 at page 83.

RESOLUTION NO. 84-215 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A NOTICE OF INTENT WITH THE NORTH CAROLINA DEPARTMENT OF ADMINISTRATION, STATE DIVISION OF PURCHASE AND CONTRACT, FOR PARTICIPATION IN THE NORTH CAROLINA STATE CONTRACT FOR TIRES AND TUBES

10. Consideration was given to a resolution authorizing the Mayor to execute a Notice of Intent with the North Carolina Department of Administration, State Division of Purchase and Contract, for participation in the North Carolina State Contract for tires and tubes.

Mayor McDevitt said the North Carolina Department of Administration makes the services of the State Division of Purchase and Contract available to non-state agencies by allowing these agencies to participate in state purchase contracts on an elective basis. The State Division of Purchase and Contract has notified the City that they will be taking bids for tires and tubes (Certification No. 863) for a two year contract to begin on or about July 1, 1985. The City's annual tire and tube purchases are approximately $65,000. The City has been a participant of the current North Carolina State Contract since April, 1983. The Purchasing Director and Motor Transport Superintendent recommend that the City continue to participate in this state purchase contract. The contract provides discounts of 15% to 60% on manufacturers list prices.

Mayor McDevitt said members of Council were furnished copies of the resolution and it would not be read in its entirety.

RESOLUTION NO. 84-211 - RESOLUTION APPOINTING A MEMBER TO THE ASHEVILLE-BUNCOMBE INSURANCE ADVISORY COMMITTEE (MRS. BARBARA JONES)

6B. Consideration was given to a resolution appointing Mrs. Barbara Jones as a member of the Asheville-Buncombe Insurance Advisory Committee.

Mayor McDevitt said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Bissette, seconded by Councilman Frank, Resolution No. 84-211 was unanimously adopted.

Complete text of Resolution No. 84-211 will be found in Resolution Book No. 15 at page 80.

RESOLUTION NO. 84-212 - RESOLUTION OF INTENT TO CLOSE A PORTION OF ALTA AVENUE AND SCHEDULING A PUBLIC HEARING FOR DECEMBER 11, 1984

7. Consideration was given to a resolution of intent to close a portion of Alta Avenue and scheduling a public hearing for December 11, 1984.

Mayor McDevitt said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Boland, seconded by Councilman Price, Resolution No. 84-212 was unanimously adopted.

Complete text of Resolution No. 84-212 will be found in Resolution Book No. 15 at page 81.

RESOLUTION NO. 84-213 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT WITH C & W VENDING COMPANY CONCERNING THE CONSTRUCTION OF A BUILDING WITHIN THE LIMITS OF A 20' RIGHT-OF-WAY FOR A SEWER LINE OWNED AND MAINTAINED BY THE CITY OF ASHEVILLE

8. Consideration was given to a resolution authorizing the Mayor to execute an agreement with C & W Vending Company concerning the construction of a building within the limits of a 20' right-of-way for a sewer line owned and maintained by the City of Asheville.

Mayor McDevitt said C & W Vending Company desires to encroach upon the twenty foot right-of-way for a sewer line that is owned and maintained by the City of Asheville with the construction of a building. C & W Vending Company agrees to release the City of Asheville from any responsibility and/or liability for damage which might be occasioned to the building as a result of any repairs and/or maintenance for this sewer line. Due to the fact that this building has already been constructed, the City of Asheville is of the opinion that it would be to the best interest of the City of Asheville to enter into such an agreement. This property is located on Sweeten Creek Road.

Mayor McDevitt said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Cont'd -
Bill Slawter Letter of 08/07/84 - identified as W-12
Workers' Compensation Report dated 10/31/83 - identified as W-13
Workers' Compensation Notice to Employer dated 10/31/83 - identified as W-14
Treadmill Exercise Test by Dr. Maddox dated 10/19/83 - identified as W-15
St. Joseph's Hospital Records (Admission H & P) dated 10/06/83 - identified as W-16
St. Joseph's Hospital Records of 10/14/83 - identified as W-17
St. Joseph's Hospital Physical Therapy Report dated 10/20/83 - identified as W-18
St. Joseph's Hospital Laboratory Report of Dr. Teaford dated 10/07/83 - identified as W-19
St. Joseph's Hospital Laboratory Report of Dr. Morrison dated 10/08/83 - identified as W-20
08/16/84 Memorandum from Lynn Hollifield, R.N. to Bill Slawter - identified as W-21
02/16/76 Melvin C. Walsh - City Infirmary Medical Records - A-1 - identified as W-22
Minutes of 08/20/84 - Policemen's Pension and Disability Fund regarding Melvin C. Walch - identified as W-23
Minutes of 07/16/84 - Policemen's Pension and Disability Fund regarding Melvin C. Walsh - identified as W-24
Minutes of 09/17/79 - Policemen's Pension & Disability Fund - identified as W-25
Minutes of 09/28/79 - Policemen's Pension & Disability Fund - identified as W-26
Minutes of 08/24/79 - Policemen's Pension & Disability Fund - identified as W-27
Minutes of 08/20/79 - Policemen's Pension & Disability Fund - identified as W-28
Minutes of 07/09/79 - Policemen's Pension & Disability Fund - identified as W-29

Note: A copy of all documents are attached to the original minutes of this meeting.

Mr. Melvin C. Walsh, Jr. was sworn in, by affirmation, by Mayor McDevitt.

In summary, Mr. Walsh stated that he was employed by the City of Asheville as a Police Officer since April 1, 1970, and ceased employment on October 5, 1983, due to a heart attack on that date. He said on October 5, 1983, he was working with another officer, Mr. Ross Robinson, on the evening shift, being 5:00 p.m. until 1:00 a.m. He said they had not worked together that night, but were together later in the evening on Merrimon Avenue on a rape/felony case. He said earlier in the evening he had chest pains in his arm, and didn't feel right. He said when arriving on Merrimon Avenue, at the rape/felony case, Mr. Robinson insisted that he go home due to his pains in the chest and arm. He said he went home shortly after midnight and laid down, went to sleep, and woke up with more severe pain in the chest, arm, and legs. He said his wife took him to the emergency room at the hospital where he was seen by Dr. Fowler. He said he was admitted to the intensive care unit and remained there for treatment for two or three days. He said he then remained in the hospital for more than two weeks. He said during his hospital stay, he was examined by Dr. Robert S. Byron, a psychiatrist who was recommended by Dr. Fowler. He said after being discharged from the hospital he continued to see Dr. Fowler and is taking medication prescribed by Dr. Fowler for an acute myocardial infarction. He said he then applied to the City for disability in the line of duty. He said Dr. Byron had recommended that he not return to work.

Mr. Walsh was then cross-examined by Corporation Counsel Slawter.

In summary, Mr. Slawter questioned Mr. Walsh relative to his routine examinations in 1976 by the City Infirmary Nurse, particularly relative to his high blood pressure problems. Mr. Walsh indicated he had never been told that he had

Upon motion of Councilman Boland, seconded by Councilman Frank, Resolution No. 84-215 was unanimously adopted.

Complete text of Resolution No. 84-215 will be found in Resolution Book No. 15 at page ~~84~~. 90 ℛ

ORDINANCE NO. 1481 - AN ORDINANCE AMENDING CHAPTER 5 (ANIMALS AND FOWLS) OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE

11. Consideration was given to the third reading of Ordinance No. 1481, an ordinance amending Chapter 5 (Animals and Fowls) of the Code of Ordinances of the City of Asheville.

Mayor McDevitt said this ordinance was previously read on first and second reading and would not be reread in its entirety unless there was a specific request to do so.

On a roll call vote of 6-0, Ordinance No. 1481 passed on third and final reading.

Complete text of Ordinance No. 1481 will be found in Ordinance Book No. 10 at page ~~232-240~~. 198-206 ℛ

APPEAL HEARING - MELVIN C. WALSH, JR. - REQUEST FOR LINE-OF-DUTY DISABILITY RETIREMENT

12. An appeal hearing was held in the matter of Melvin C. Walsh, Jr.'s request for line-of-duty disability retirement.

Mayor McDevitt said Melvin C. Walsh, Jr. is appealing the decision of the Board of Examiners and the decision of the Board of Trustees of the Asheville Policemen's Pension and Disability Fund to the Asheville City Council for in-line-of-duty disability retirement. At the October 16, 1984 Council meeting this appeal hearing was rescheduled until November 13, 1984 at the request of Mr. Walsh and with the consent of his attorney, Mr. Max Cogburn.

Mayor McDevitt explained the procedure to be followed during the appeal hearing.

Max Cogburn, Attorney for Mr. Melvin C. Walsh, Jr., offered the following as evidence in the hearing:

Letter from Dr. Robert Byron dated 07/26/84 - identified as W-1
Letter from Dr. Robert Byron dated 05/25/84 - identified as W-2
11/03/83 Report from Dr. Robert Byron - identified as W-3
10/20/83 Report from Dr. Robert Byron - identified as W-4
St. Joseph Discharge Summary dated 10/19/83 - identified as W-5
Letter from Dr. William Fowler dated 07/25/84 - identified as W-6
Letter from Dr. William Fowler dated 05/07/84 - identified as W-7
Letter from Dr. William Fowler dated 12/27/83 - identified as W-8
Letter from Dr. William Fowler dated 11/01/83 - identified as W-9
St. Joseph's Hospital Discharge Summary dated 10/21/83 - identified as W-10
Report from Dr. Nailling dated 08/15/84 - identified as W-11

After further discussion, it was mutually agreed by Council and Mr. Cogburn, Mr. Walsh's attorney, that Council deliberate the appeal in executive session and render their decision in an open session at a later date. It was agreed that Mr. Cogburn's closing agruments would be heard at the meeting of November 20, 1984.

Mr. Cogburn said he would request a copy of the minutes in 1979 of those retired by disability in the line of duty due to a heart attack.

Corporation Counsel Slawter requested that the following records be offered in the appeal hearing. "City Infirmary records relative to Mr. Walsh."

Sam Graves, Director of Management Services, was sworn in, by affirmation, by Mayor McDevitt.

Upon questioning by Mr. Cogburn, Mr. Graves said that Lynn Hollifield had been employed by the City of Asheville since June, 1984.

The hearing was recessed until November 20, 1984.

(A tape recording of the hearing is available in the office of the City Clerk.)

ORDINANCE NO. 1483 - AN ORDINANCE AMENDING ORDINANCE NO. 1027 REGARDING KENNEL LICENSE TAXES

13. Consideration was given to an ordinance amending Ordinance No. 1027 regarding kennel license taxes.

Mayor McDevitt said this ordinance would include the new definition of a kennel in the Revenue Ordinance.

Mayor McDevitt said members of Council were furnished copies of the ordinance and it would not be read in its entirety.

Councilman Price moved for the adoption of Ordinance No. 1483. This motion was seconded by Councilman Frank.

On a roll call vote of 6-0, Ordinance No. 1483 passed on first reading.

ORDINANCE NO. 1484 - ORDINANCE TO RESCIND ORDINANCE NO. 1477 - BUDGET ORDINANCE (RETIRED POLICE OFFICERS)

14. Consideration was given to an ordinance to rescind Ordinance No. 1477 approved by City Council on October 23, 1984, appropriating funding for the Asheville Police Pension and Disability Plan members and survivors.

Mayor McDevitt said members of Council were furnished copies of the ordinance and it would not be read in its entirety.

Councilman Boland moved for the adoption of Ordinance No. 1484. This motion was seconded by Councilman Bissette.

On a roll call vote of 6-0, Ordinance No. 1484 passed on first and final reading.

high blood pressure prior to his heart attack on October 5, 1983. A discussion was held relative to Dr. Fowler's letter of May 7, 1984, indicating that Mr. Walsh had completely recovered from a recent myocardial infarction and could be re-employed in any occupation that is devoid of strenuous physical and/or emotional stress.

Several members of Council questioned Mr. Walsh about his previous high blood pressure and his unusual amount of stress. In this discussion, Mr. Walsh indicated that he was highly stressed over one particular case involving two elderly people that had a large amount of money taken from them.

At the request of Mr. Cogburn, Mr. Walsh detailed the larceny case involving the two elderly people.

Mr. Ross Robinson was sworn in, by affirmation, by Mayor McDevitt.

In summary, upon questioning by Mr. Cogburn, Mr. Robinson said he was working with Mr. Walsh on the night of October 5, 1983. He said he saw him close to midnight, approximately 11:40 p.m. He said at that time Mr. Walsh was pushing upward around his diaphram, changing colors, grayish, and Mr. Walsh told him he did not know what it was. He said he advised Mr. Walsh to go home. He said he finally did go home a little after midnight. He said Mr. Walsh never returned to work after that date. He said, in his opinion, Mr. Walsh takes everything very seriously. He said he knew about the larceny case referred to by Mr. Walsh, and knew that it was upsetting to Mr. Walsh.

Corporation Counsel Slawter cross-examined Mr. Ross Robinson.

In summary, Mr. Robinson told Mr. Slawter that he did not work all evening with Mr. Walsh. He said in his opinion he was not considered as a sick person and he was always at work.

Dr. Robert Byron was sworn in, by affirmation, by Mayor McDevitt.

In summary, Dr. Byron was presented as an expert witness in psychiatry. Upon questioning of Mr. Cogburn, he said he first saw Mr. Walsh at the request of Dr. Fowler on October 19, 1983. He said his diagnosis is psychological factor affecting physical condition. He said it would be impossible for a physician to recommend Mr. Walsh go back to work in police surroundings. He said even thinking about police work would be detrimental to his health and would very likely result in another body system injury. He said, in his opinion, Mr. Walsh can no longer manage daily stress, and his former ability to manage stress is diminished.

Corporation Counsel Slawter cross-examined Dr. Robert Byron.

In summary, Dr. Byron said while it was his understanding from Dr. Fowler that Mr. Walsh had recovered from his myocardial infarction, it would be his opinion that Mr. Walsh is permanently and totally disabled from working in the law enforcement field. He said Mr. Walsh's ability to handle stress is an indication that he could not return to work.

Dr. Byron was questioned by several members of Council. At which time Dr. Byron said Mr. Walsh could go to work in some other employment, however, he would still be vulnerable to psychological stress.

ROBERT S. BYRON, M D., P.A.
Practice Limited to Psychiatry

EXHIBIT W - 2

PHONE (704) 254-5169
BY APPOINTMENT ONLY

SUITE E, MEDICAL-DENTAL BUILDING
675 BILTMORE AVE.
ASHEVILLE, N. C. 28803

May 25, 1984

Mr. Max Cogburn, Esq.
P.O. Box 7345
Asheville, N.C. 28807

Re: Mr. Melvin C. Walsh, Jr.

Dear Mr. Cogburn:

At Mr. Walsh's request, I am sending you psychiatric opinion as to his vocational disability status based on psychiatric examination I conducted on October 19 and 20, 1983, while he was hospitalized due to myocardial infarction at St. Joseph's Hospital, Asheville, North Carolina. I was asked to see the patient in psychiatric consultation by Mr. Walsh's attending physician, Dr. William B. Fowler.

My diagnosis is that of Psychological Factor Affecting Physical Condition.

While it is my understanding from Mr. Walsh himself and his physician, Dr. Fowler, that he has recovered from his myocardial infarction, it is my opinion that he is permanently and totally disabled from working in the law enforcement field. This is directly due to the diagnosis noted above, which I find unresolvable in Mr. Walsh's personality function. In elaboration, it is my opinion that he is so disabled in regards to all areas of law enforcement work, whether we are considering opportunities in the Asheville Police Department, other local public law enforcement or private positions, or any such positions in another geographical area.

Respecting his limitations imposed by the history of heart attack, it is furthermore my opinion that Mr. Walsh may be able to undertake vocational rehabilitation counseling in an effort to consider employment in another area that recognizes his particular specific vulnerability to psychological stress.

I hope this information is of help to you as you go on to work with Mr. Walsh.

Sincerely,

Robert S. Byron M.D.

Robert S. Byron, M.D.

RSB/bh

EXHIBIT W - 1

ROBERT S. BYRON, M.D., P.A.
Practice Limited to Psychiatry

PHONE (704) 254-5369
BY APPOINTMENT ONLY

SUITE E, MEDICAL-DENTAL BUILDING
678 BILTMORE AVE
ASHEVILLE, N.C. 28803

July 26, 1984

Mr. Max O. Cogburn, Esq.
Roberts, Cogburn, McClure and Williams
P.O. Box 7345
Asheville, N.C. 28807

Re: Mr. Melvin Walsh

Dear Mr. Cogburn:

Thank you for your recent correspondence and telephone call. I anticipate communicating with you further prior to the scheduled Board Hearing in the case of Mr. Walsh that is set for August 20, 1984.

As you know, I am of the opinion that Mr. Walsh was operating under stress in the Asheville Police Department, leading directly to the heart attack he sustained, that this stress existed in two forms, (1) from an unresolved incident two months prior to the heart attack in which a case involving the theft of some $6,000 from an elderly couple was never solved, and this constantly acted to defeat Mr. Walsh's sense of responsibility in helping solving the case, and (2) a much longer existing stress related to what Mr. Walsh perceived as unfairness in promotion practices within the police department. Having had the heart attack, and knowing the psychosomatic aspect of that illness in his case, I am furthermore of the opinion that he is totally and permanently disabled, as he himself has the insight that a recurrent heart attack is likely as soon as he re-encounter the aforementioned stresses. His personality cannot cope with the stress in any other way than to have a recurrent heart attack.

I will look forward to our subsequent contact.

Sincerely,

Robert S. Byron, M.D.

RSB/bh

EXHIBIT W - 4

ST. JOSEPH'S HOSPITAL, INC.

PSYCHIATRIC CONSULTATION:

Consultant: Dr. Byron
Attending Physician: Dr. Wm. Fowler
Date: 10/20/83

This 56 year old married white male policeman is being seen in psychiatric consultation at the request of Dr. Wm. Fowler while the patient is in convalescent stage of recent myocardial infarction, recouperating well physically, but showing increasing hostility and paranoia.

The pt. is interviewed directly in two separate sessions and I have talked to his wife briefly.

In mental status exam I find no defect in cognition, as the patient is able to give a reliable history, is oriented, and shows reasonable judgement, logic and reasoning functions and memory is intact. His mood and affect show some depressive element, mild, but the affect while guarded,is appropriate. His thought process is normal in rate and content focuses on his job and the pride he has had in it, but at the same time the injustice he sees in his failure to be promoted in 24 years of loyal and effective service. This focus reveals at the same time much associated resentment and anger as well as hurt. Furthermore there is, as the patient describes the situation, an obvious increase in tension- all conveying a stress patient experiences virtually in being on the job, certainly manifest here in the hospital simply recalling where he has been in the Department and the situation to which he must return. There is no paranoid ideation. He literally do not know whom to blame for the continual disappointment in not being promoted while he received accolades verbally from his superiors and fellow officers. He can point out that he supposedly was failed in his promotion efforts because of his poor performance on advancement tests, and not on his job performance.

Diagnostically, I am hard put to find any significant psychopathology here, except the very obvious stress induced position that he is in and that in my opinion has contributed to his heart disease.

If he is to be believed that promotion will not be forth-coming between now and the time of normal retirement, then it is predictable that stress will continue to operate.

I think it would be appropriate for me to talk to Capt. Best, a retired policeman, on the same force whom the patient states knows his case best.
At any rate, I feel it would be our responsibility to this patient to advise acknowledging the situation for its tremendous stress producing influence here , and then to further advise that he be medically retired from the police force. I am convinced this is the best of three options, the other two being simply to return to the status quo, and the other being to return to a reduced work load on a permanent basis.

I do not see it in the patient's best interests at all to completely resign at this point in time.

Meanwhile, I strongly encourage you to shift from Valium as a tranquilizer, to Tranxene, Serax, or Ativan, since Valium in a case like this is quite likely to increase hostility

CONTINUED .....

EXHIBIT W - 3

ROBERT S. BYRON, M.D., P.A.
Practice Limited to Psychiatry

PHONE (704) 254-5369
BY APPOINTMENT ONLY

SUITE E, MEDICAL-DENTAL BUILDING
675 BILTMORE AVE.
ASHEVILLE, N. C. 28803

November 3, 1983

TO WHOM IT MAY CONCERN:

Re: Melvin C. Walsh, Jr.
Age 56

I saw Mr. Walsh on two occasions, on October 19 and October 20, 1983 in psychiatric consultation at St. Joseph's Hospital, Asheville, North Carolina, at the request of his attending physician, Dr. William B. Fowler.

My findings from consultation lead to the diagnosis of Psychological Factor Affecting Physical Condition, Code 316.00 (DSM III); Axis II, None; Axis III Myocardial Infarction; Axis IV stressor - job.

In my opinion, Mr. Walsh is totally and permanently disabled, and so should immediately be placed on medical retirement status.

Sincerely,

Robert S. Byron, M.D.

RSB/bh

EXHIBIT W - 5

ST. JOSEPH DISCHARGE SUMMARY DATED 10/19/83

** Although this document was referred to in the Appeal Hearing -

The actual St. Joseph Discharge Summary is dated 10/21/83 and identified at Exhibit W - 10.

CONSULTATION: Continued....Pg. -2-

to the patient's detriment. It is pretty well known also to have more proclivity to exacerbate depression. I would not advocate using tricyclic compound. I would like very much to talk directly to you about these recommendations.

Thank you for this most interesting consultation .

Robert S. Byron

D&T 10/20 #9

ROBERT S. BYRON, M.D./po

PSYCHIATRIC CONSULTATION

WALSH, MR. MELVIN, JR.
DR. BYRON 10/20/83
335589

1019

WILLIAM B. FOWLER, M.D., P.A.
SUITE 1
MEDICAL-DENTAL BLDG.
ASHEVILLE, N. C. 28803

EXHIBIT W - 7

May 7, 1984

TO WHOM IT MAY CONCERN:

Re: Melvin Walsh

Mr. Walsh has now completely recovered from a recent myocardial infarction and can be re-employed in any occupation that is devoid of strenuous physical and/or emotional stress. It is my understanding that Dr. Robert Byron (psychiatrist) has rendered an opinion as to his psychological disability requirements.

I trust this is sufficient information. If I can be of any further assistance, please don't hesitate to call upon me.

Sincerely yours,

William B. Fowler, M.D.

WBF/bh

WILLIAM B. FOWLER, M. D.
SUITE F
MEDICAL-DENTAL BLDG.
ASHEVILLE, N. C. 28803

EXHIBIT W - 6

July 25, 1984

AUG 1 1984

Mr. William F. Slawter
Corporate Counsel
City of Asheville
Office of the Corporate Counsel
P.O. Box 7148
Asheville, N.C. 28807

Re: Mr. Melvin C. Walsh, Jr.

Dear Mr. Slawter:

Please refer to your letter dated July 19, 1984 requesting medical information in regard to Mr. Melvin C. Walsh, Jr. Mr. Walsh had an Acute Myocardial Infarction on October 6, 1983 and was hospitalized at St. Joseph's Hospital and then was discharged on October 21, 1983. During his hospitalization he had no specific complications in regard to his myocardial infarction but did have peculiar psychological factors which had some bearing upon his ultimate recovery. Because of his psychological complaints he was seen in consultation by Dr. Robert Byron who recommended that Mr. Walsh not be re-employed in the capacity of a police officer for the City of Asheville.

As of May 7, 1984, it was my opinion that Mr. Walsh had completely recovered from his myocardial infarction and that he could be re-employed in any occupation devoid of severe strenuous activity and/or emotional stress. This occupation, however, would have my approval only if Dr. Robert Byron felt that it was safe emotionally for Mr. Walsh.

I have no other specific information in regard to Mr. Walsh, and he was last seen by me on June 20, 1984, at which time he had the current clinical impressions of: (1) Arteriosclerotic Heart Disease with remote Myocardial Infarction, and (2) Hostile Personality Reaction, secondary to previous employment, and was taking Valium 5 mgs. prn, Transderm Nitro 5 mgs. 1 patch daily, and Inderal 20 mgs. t.i.d. He was advised to return to this office in six weeks for re-evaluation.

I trust this is sufficient information, and if I can be of any further assistance, please don't hesitate to contact me.

Sincerely,

William B. Fowler, M.D.

WBF/bh

WILLIAM B. FOWLER, M. D. P.A.
SUITE P
MEDICAL-DENTAL BLDG.
ASHEVILLE, N. C. 28803

EXHIBIT W - 9

November 1, 1983

TO WHOM IT MAY CONCERN:

Re: Mr. Melvin C. Walsh

Mr. Walsh is a 56 year-old white married male employee of the Ashsville Police Department who developed an acute Myocardial Infraction of moderately severe nature while employed on October 6, 1983 and was hospitalized at St. Joseph's Hospital. In addition, he had an Anxiety Neurosis which aggravates his cardiac condition, and it is my opinion that continued employment as a policeman would be detrimental to his health.

I trust this is sufficient information. If I can be of further assistance, please don't hesitate to call on me.

Sincerely yours,

William B. Fowler, M.D.

WBF/bh

WILLIAM B. FOWLER, M. D. P.A.
SUITE F
MEDICAL-DENTAL BLDG.
ASHEVILLE, N. C. 28803

EXHIBIT W - 8

December 27, 1983

Attorney Max O. Cogburn
Twelfth Floor Western Carolina Building
Pack Square
Asheville, North Carolina 28801

Re: Melvin C. Walsh, Jr.

Dear Mr. Cogburn:

Mr. Walsh requested that I report his current physical status to you. He was recently hospitalized at Saint Joseph's Hospital on 10/6/83, and was found to have an acute Myocardial Infarction of a moderate severity. During his hospitalization, he was noted to have a moderate degree of emotional problems thought secondary to his occupation. He was, for that reason, seen by Doctor Robert Byron (Psychiatrist), and it was Doctor Byron's suggestion that he not return to his occupation. Doctor Byron felt that his job constituted an emotional stress which could be adverse to his health in regard to a possible recurrent Myocardial Infarction.

When he was last seen on December 20, 1983, his weight was 170½ pounds, temperature 96 degrees Farenheit (orally), pulse 69, blood pressure 118/74, (right arm sitting). He stated he had not had any cardiac irregularity, dyspnea or chest pain, and was advised to continue on Transderm Nitro-5 one daily, Nitroglycerin sublingually p.r.n. chest pain, and Inderal 20 mg. t.i.d. for extra systoles. He was encouraged to return to this office in three weeks for cardiac reevaluation.

I trust that this is sufficient information, and I have actually taken the liberty of quoting Doctor Byron. I am sure that an enquiry to Doctor Byron woud substantiate the above comments.

Sincerely yours,

William B. Fowler, M.D.
WBF/alw

DISCHARGE SUMMARY: Pg. 2

EKG on 10/10 revealed first degree AV block with an episode of second degree AV block, probably Wenckebach type, inferior injury or infarct change since 10/9/83. EKG on 10/11 revealed first degree AV block with intermittent second degree AV block, inferior myocardial infarction unchanged. Treadmill stretch test, submaximum was obtained on 10/19 and revealed submaximal stretch test for heart rate. Average exercise capacity, rare single multifocal PVC's with exercise, normal systolic blood pressure response. Abnormal rise in diastolic. No ischemic ST changes, or chest pain noted.

D 11-/17/83
T 11-21-83
#7 ±

W.B. FOWLER, M.D./vj

DISCHARGE SUMMARY

WALSH, MELVIN
DR. FOWLER
335589

EXHIBIT W -10

1 ST. JOSEPH'S HOSPITAL, INC.

#335589

DISCHARGE SUMMARY:

ADMITTED: 10/6/83
DISCHARGED: 10/21/83

FINAL DIAGNOSIS: 1. Acute myocardial infarction.
2. Psychological factors affectiing physical condition.

OPERATIONS & PROCEDURES: None.

CONSULTANTS: Dr. Byron.

COURSE IN HOSPITAL & DISPOSITION: The pt. was admitted to the hospital with evidence of acute myocardial infarction of an inferior nature. Was treated initially in the Coronary Care Unit, where he failed to develop any evidence of complications. He was then transferred to intermediate care unit, and general hospital care, with the institution of a myocardial rehabilitation program without incident. At the time of discharge he was ambulatory, and had stable normal vital signs. He was seen in consutation by Dr. Byron because of a suppressed hostile feeling in relationship to his occupation, and it was Dr. Byron's opinion that he should be "totally and permanently disabled from job, and I must advise retirement on these grounds at this time". Discharge medications included Valium 5 mg. t.i.d. Nitrol Ointment 1 in. every 4 hrs. Inderal 20 mg. t.i.d. Tagamet 300 mg. q.i.d. and Maalox Plus 1 tablesp. full q.i.d. The latter 2 medications were used because of the history of peptic ulcer disease, and because of associated symptomatology during this hospitalization that was compatible with recurrence of the ulcer.

Assessory clinical studies done during this hospitalization included the following: CBC was remarkable in that the WBC was increased to 11,100, with a differential of 2 bands, 74 segs, 21 lymphs and 3 monos. The other parts of the CBC were within normal limits. Electrolytes were obtained on 2 different occasions, and both were within normal limits. SGOT elevated to 128, gradually subsided to normal levels 4 days later. LDH's were consistently elevated from 296 to as high as 355 on 10/9/83. Chemistry profile on 10/6 was within normal limits, with the exception of alkaline phosphatase which was slightly elevated to 77. A repeat profile done on 10/7/83 was within normal limits. CPK rose to 866 and 518 on 10/7 and 10/8 respectively. On 10/9 CPK had subsided to 298. Amylase both urine and serum were within normal limits on one occasion. Triglycerides were 140, and lipid thenar type was obtained, and reported as a normal pattern. Isoenzymes for CPK and LDH were diagnostic of an acute myocardial infarction. Portable chest xray on 10/6/83 was normal. EKG on 10/6 revealed normal sinus rhythm, rt. axis deviation, ST increased inferiorly. EKG on 10/7 revealed first degree AV block, sinus bradycardia and QST's inferiorly, with slight ST. rule out inferior myocardial infarction. EKG on 10/7/83 revealed sinus bradycardia and inferior myocardial infarction, and/or injury. EKG on 10/8 revealed first degree AV block, clockwise rotation, nondagnostic Q's inferiorly, ST increased inferiorly persist, compatible with injury. EKG on 10/9 revealed first degree AV block and inferior myocardial infarction. EKG on 10/9 revealed second degree AV block, probably Mobitz I and inferior myocardial infarction.

CONTINUED.....

PATIENT DISCHARGE SUMMARY Oct. 21, 1983

Discharged by Dr.: Fowler Time: 1210

Final discharged diagnosis acute MI, psychological factors affecting physical condition

Appointment(s): Date 10/28/83 Time 11:15 AM No Appointment

Date _____ Time _____

Patient to make _____ Already has _____

Prescription(s): given to pt.

Above given to patient by: Dr. _____ Nurse ✓ U/C _____ No Rx _____

Patient discharged to home

Patient left unit with wife, volunteer

by: Ambulatory _____ Ambulance _____

Stretcher _____ W/C ✓

Signature _____

Discharge Teaching: (State if charted previously in nurses notes)

10/14/83 NTG protocol - pt. was co-operative, understood instructions & gave back positive feedback Rx use, etc. Illegible

Patient's response or family's response

Patient's condition upon discharge (include equipment or dressings given)

Patient taken home personal articles: ✓

Articles left: — Patient notified of articles left _____

Time patient left unit 1210

Signed J. Gettman RN

Discharge Summary
St. Joseph's Hospital

SJH/81

1019
WALSH, JR, MELVIN C
HELEN 298 3731
335569 56 MWM LUTH
DR FOWLER 160 10/6/83

PATIENT DISCHARGE SUMMARY

Date 10/21/83

Discharged by Dr.: Fowler Time: _____

Final discharged diagnosis /

Appointment(s): Date Oct. Time _____ No Appointment

Date _____ Time _____ Have EKG done

Patient to make _____ Already has _____

Prescription(s): Maalox Plus 30 XVI between meals / Inderal 20mg ÷ t.i.d

Lasamet 300 mg ÷ AC & HS / Valium 5mg ÷ t.i.d

Nitrol Ointment 2% ½" q 4°

Above given to patient by: Dr. _____ Nurse _____ U/C _____ No Rx _____

Patient discharged to _____

Patient left unit with _____

by: Ambulatory _____ Ambulance _____

Stretcher _____ W/C _____

Signature _____

Discharge Teaching: (State if charted previously in nurses notes)

Patient's response or family's response

Patient's condition upon discharge (include equipment or dressings given)

Patient taken home personal articles: _____

Articles left: _____ Patient notified of articles left _____

Time patient left unit _____ 10 20 82

Signed _____ 1019

Discharge Summary
St. Joseph's Hospital

SJH/81

WALSH, JR, MELVIN C
HELEN 298 0731
335589 56 MWM LUTH
DR FOWLER 160 10/6/83

RICHARD C. NAILLING, M. D.
5 DOCTORS PARK
ASHEVILLE, N. C. 28801
TELEPHONE: 254-6361

August 15, 1984

William F. Slawter, Corporate Counsel
City of Asheville
Office of the Corporate Counsel
P.O. Box 7148
Asheville, North Carolina 28807

Re: Melvin C. Walsh, Jr.

Dear Mr. Slawter:

The following medical information includes, date and type of treatment for Mr. Walsh.

April 1959 Seen in the office for a keratotic mole of the right side.

Nov. 1961 Office - Fulguration of lesion (? Hyperkeratosis) left side of nose.

Nov. 1971 Excision of lipoma of right scapular area.
Nov. 1971 Excision of keratosis, left ear, nevus under left ear and right cheek.

March 1972 Removal of hemangioma inside left cheek.

June 1979 cc: Nausea, vomiting. Upper GI: Normal UGI with the exception of a small hiatal hernia.

June 1979 Gastroenterological Consultation with Dr. Michael Grier.
Diagnosis: Active duodenal ulcer. Rx Tagamet (medication)

Nov. 1979 Ordered: Gallbladder Series - normal cholecystogram.

Aug. 1982 Ordered: Gallbladder Series - Impression: Normal.

Hopefully this information will be of help to you. As you will note, I have not seen Mr. Walsh in the past two years.

Sincerely yours,

Richard C. Nailling, M. D.
RCN/jb

EXHIBIT W - 11

Time 9:15

WHILE YOU WERE OUT

M - Walling's office

of (Joanne)

Phone 254-6381

Area Code Number Extension

TELEPHONED	X	PLEASE CALL	X
CALLED TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		URGENT	
RETURNED YOUR CALL			

Message They have not seen Mr. Walsh since 1981. At that time Dr Walling just treated him for an active ulcer. No disability at all!

Operator

nms

AMPAD EFFICIENCY® 23-000 50 SHT PAD 23-001 250 SHT. DISPENSER BOX

EXHIBIT M - 13

Form No. 18

THE USE OF THIS FORM IS REQUIRED UNDER THE PROVISIONS OF THE WORKMEN'S COMPENSATION ACT

NORTH CAROLINA INDUSTRIAL COMMISSION

RALEIGH

This Report Filed Only in Compliance With Section G. S. 97-92 and Not Employee's Claim for Compensation

I. C. File No. _____
Emp. Code No. [redacted]
Carrier Code No. [redacted]
Carrier File No. _____

Code numbers furnished each employer and carrier should be inserted before mailing.
(Refer to I. C. File No. in all correspondence about this injury.)

EMPLOYER'S REPORT OF INJURY TO EMPLOYEE
EVERY QUESTION MUST BE ANSWERED

This Report Must be Transmitted to the Commission Through Your Insurance Carrier

Employer

1. Name of Employer: City of Asheville
2. Office address: No. and St. P. O. Box 7148 City or Town Asheville State NC
3. Insured by: Self/Gallagher Bassett Insurance Service, 2 Hampton Ave., Greenville, SC 29601
4. Give nature of business (or article manufactured): Municipal Government

Time and Place

5. Location of plant or place where injury occurred
   County: Buncombe Department: Police State if Employer's premises
6. Date of injury: October 5, 19 83 Day of week: Wednesday Hour of day: A.M. 11:30 P.M.
7. Was injured paid for entire day: yes 8. Date disability began: October 6, 19 83 A.M. P.M.
9. When did you or your foreman first know of injury: October 6, 1983
10. Name of foreman: E. F. Edwards

Person Injured

11. NAME OF INJURED: Melvin C. Walsh, Jr. Social Security: 246-32-5540
12. Address: No. and St. 6 Middlebrook City or Town Asheville State NC
13. Check (x) Married X, Single ____, Widowed ____, Widower ____, Divorced ____, Male X, Female ____
14. (a) Nationality: American (b) No. of children under 18 years: 0
15. Age of injured employee: 57
16. (a) Occupation when injured: Detective (b) Was this his or her regular occupation: yes
    (If not, state in what department or branch of work regularly employed)
17. (a) How long employed by you: 23 years (b) Wages per hour $
18. (a) No. hours worked per day: 8 (b) Wages per day $
    (c) No. days worked per week: 7 (d) Average weekly wages incl. overtime $
    (e) If board, lodging, fuel or other advantages were furnished in addition to wages, give estimated value per day, week or month

Do Not Write In This Space
Occ. Class [redacted]
Injury Code

Cause of Injury

19. Machine, tool or thing causing injury
20. Kind of power (hand, foot, electrical, steam, etc.)
21. Part of machine on which injury occurred
22. (a) Was safety appliance or regulation provided: yes (b) Was it in use at time: yes
23. Was accident caused by injured's failure to use or observe safety appliance or regulation: no
24. Describe fully how injury occurred, and state what employee was doing when injured: Employee stated he reported to work at 5:00 P.M., 10/5/83, he stayed until around 11:30 P.M. He had developed a lot of pain in upper left chest and left arm and he went home an hour early. During the night the pain got worse and he was taken to hospital.

(Statement made without prejudice and without vouching for correctness of information contained therein.)

Nature of Injury

25. Nature and location of injury (describe fully exact location of amputations or fractures, right or left): Heart Attach
26. Probable length of disability: Unknown
    If so, date and hour
27. Has injured returned to work
    At what wages $
28. At what occupation
    (a) Are you continuing the employee's salary in full
29. (a) Name and address of physician
    (b) Name and address of hospital: St. Joseph's Hospital, 428 Biltmore Avenue, Asheville, NC

Fatal Cases

30. Has injured died: No If so, give date of death [redacted]

Date of this report: October 31, 1983 Firm name: City of Asheville

Signed by _____ Official Title _____

LAW REQUIRES REPORT TO BE FILED WITHIN 5 DAYS AFTER KNOWLEDGE OF ACCIDENT

EXHIBIT W - 12

August 7, 1984

Mr. Max O. Cogburn
Western Carolina Building
Asheville, North Carolina 28801

RE: Melvin C. Walsh, Jr.

Dear Max:

The nurse at the City infirmary feels that before she can release your client's medical records to us she should have an authorization signed by Mr. Walsh. I would appreciate your sending an authorization to me as soon as possible so that we might obtain those records prior to the next hearing of the Police Pension Board.

I am enclosing for your information the report which I have received from Dr. Fowler concerning your client. I have also received a report from St. Joseph's Hospital but I forwarded it to the Pension Board Clerk without keeping a copy. You can certainly review it in that office if you wish. I have not yet heard from Dr. Nailling.

Thank you for your cooperation and assistance.

Very truly yours,

William F. Slawter
Corporate Counsel

WFS:msb
Enclosure

EXHIBIT [illegible] 15

ST. JOSEPH'S HOSPITAL, INC.

D[illegible]

10-18-83 Psychiatric Evaluation begun; will continue to see him daily for next 2-4 days until completed & recommendations can be made.

M Bynum

OCT 19 1983

Psych: note dictated. Will be happy to discuss if you'd like to see him again. Thanks.

M Bynum

CARDIOLOGY

Low level Naughton Treadmill performed using a modified slower protocol because he was not able to keep up with the more Rapid Treadmill speed. During late Attempts @ Rising speed, he Again Complained of Near Collapse Although he Again Stated that he simply Stopped & felt Fine —

Results: No Angina with Treadmill to Maximal predicted low level heart Rate of 125 bpm —

No ischemic electrocardiographic Changes

BP 124/68 → 164/88 / Normal Systolic Response & Abnormal Diastolic Rise —

Rare PVC's & complex Arrhythmias

We will see Again on Request, Recommend Beta blocker Antihypertensive long Term

Cath if he develops Angina Cor: Medical

or Late Elective

Home today if agreeable to pt & Neurology Svc of

WALSH, JR., MELVIN C
HELEN 298 3751
335-09 55 AVE LUTH
DR FULLER I.D 10/6/83

SJH #10 PROGRESS RECORD

Form No. 13

THE USE OF THIS FORM IS REQUIRED UNDER THE PROVISIONS

EXHIBIT W - 14

NORTH CAROLINA INDUSTRIAL COMMISSION

RALEIGH, NORTH CAROLINA

I. C. File No. _____
Emp. Code No. _____
Carrier Code No. _____
Carrier File No. _____
(Refer to I. C. File No. in all correspondence about this injury)

NOTICE OF ACCIDENT TO EMPLOYER (G.S. 97-22)
and
CLAIM OF EMPLOYEE OR HIS PERSONAL REPRESENTATIVE OR DEPENDENTS (G.S. 97-24)

NOTE—To preserve your rights under the law you must give or cause to be given to your employer a written notice of the accident. This notice shall be given immediately on the occurrence of the accident or as soon thereafter as practicable and within 30 days. (See G. S. 97-58 as to Silicosis and Asbestosis.)

Asheville, N. C., Oct-1-83, 19 83

City of Asheville N.C.
(Employer)

Asheville Police Dept.
(Nature of business)

PO Box 7148 Asheville N.C.
(Address)

I hereby notify you, as required by law, that I was injured or contracted an occupational disease, to wit: Heart Attack on the 5th day of Oct, 19 82, at At Work- Asheville Buncombe Co. (City and County) The accident or occupational disease was caused by Stress

The nature and extent of injury is Myocardial Infarction Left Anterior

Address: 6- Middlebrook Dr Asheville N.C. 28805
(Give here address to which mail should be sent)

Weekly Wage: $644.00 By Weekly

My Disability began Oct-6-83 (Date) Return to Work or Estimated Disability _____ (Date)

Occupation when injured Detective CIB. Asheville Police Dept

No. hours per day 8 Days Worked per Week 5

Married L Single _____ Widow _____ Widower _____ Divorced _____ ; Male L

Female _____ ; Age 56 Soc. Sec. # 246-32-5540

In case of death, list dependents or next of kin on back of this report and give date of death.

This notice is being sent to you in compliance with requirements of the North Carolina Workmen's Compensation Act, in order that the medical services prescribed by said Act may be obtained; and, if disability extends beyond 7 days duration, or if death ensues, compensation may be paid according to law.

Witness:

[illegible]
[illegible] Asheville NC
(Address)

(Sign here) Lehmi C. Walch Jr.

Address 6- Middlebrook Dr.

By _____

NOTE—If injured is unable to sign this, another may sign for him. This form should be typewritten when possible. Employee should retain one copy of this notice—mail one copy to North Carolina Industrial Commission and furnish employer with one copy. If claim is made on account of Silicosis or Asbestosis list dates and names of employers during last 3 years on the back of this form.

EXHIBIT W - 16

ST. JOSEPH'S HOSPITAL, INC.

DATE OF ADMISSION: 10-6-83

CHIEF COMPLAINT: "Chest & left arm pain"

PRESENT ILLNESS: This 56 year old MWM criminal investigator for the local police department stated that one week prior to admission he had a URI which was controlled with "cough capsules" and "cough syrup". On the evening prior to his admission to the hospital, he had a "large pizza" and then awoke at about 5 a.m. with severe substernal chest discomfort that was a constant discomfort and associated with left arm and left neck radiation. He came to the E.R. where he was given a Nitroglycerine tablet sublingually and noted some improvement in his discomfort. An EKG done at that time revealed ST-T changes to suggest possible early inferior MI. He was, therefore admitted to the hospital for further evaluation and treatment.

He denied any previous chest discomfort, shortness of breath, but did state that he experienced diaphoresis associated with the present illness.

PAST HISTORY: Usual childhood diseases, without sequelae. Last hospitalization approximately 4 years ago for a "bleeding duodenal ulcer." No subsequent difficulties in that regard. No previous operations or significant injuries.

SOCIAL HISTORY: No known drug sensitivities. Drinks 2 to 3 cups of coffee a day. No significant alcohol consumption, but does smoke packs of cigarettes per day. He has done so for the past 6 years.

FAMILY HISTORY: Father dead at age 84 of "pneumonia". Mother is living, age 74, in fair health. One sister is living with diabetes. No other known familial diseases.

REVIEW OF SYSTEMS: HEENT-wears glasses for reading. Has occasional headaches, relieved by simple analgesics. Otherwise not remarkable. NECK-supple. Thyroid no history of goiter or limitation of motion. CR-please see PI. His last CXR and EKG unknown. GI-History of bleeding duodenal ulcer requiring a hospitalization 4 years ago without subsequent recurrence. No recent hematemesis, melena, or change in bowel habits. GU-no history of renal colic, pyuria, hematuria, dysuria. MUSCULOSKELETAL-unremarkable. NEUROPSYCHIATRIC-no history of stroke, seizures, paralysis. He states that his memory is good. He usually sleeps well, not requiring sophorifics.

PHYSICAL EXAM: (On admission) B/P 142/98 (right arm reclining). Respirations: 18. Pulse 70 and regular. Temp afebrile.
Generally, this is a WD WM who appears in no obviously acute distress, but complains of chest discomfort and left arm discomfort.
SKIN: Smooth, moist, good turgor.
LYMPH NODES: No adenopathy or tenderness.
HEENT: No exostoses or cranial tenderness. Sclera & conjunctiva clear.
~~PERRLA. Funduscopic exam is normal. EOMS are~~ performed normally. (cont'd)

HISTORY & PHYSICAL

WALSH, MELVIN
DR. FOWLER
335587 1025

Cont

TREADMILL-EXERCISE TEST

MED. RE
ROOM # 1019
PHYSICIAN Fowler
ACN #

DATE OF TEST 10/19/83

REASONS FOR TEST:

[ ] Atypical Pain
[ ] Coronary Suspect
[ ] Misc.
[ ] Exercise fitness
[ ] Therapeutic response
[ ] Arrhythmia/
[ ] Post MI/CAB(

AGE 56 ACTIVITY ASSESSMENT: Active ____ Sedentary X

H. RATE: Rest 65
Maximum 125
Average Max. for Normals 163

TEST DURATION: Actual 5 mets
Average Max. for Normals: Sedentary 10 mets
Physically Active 10 mets

BP: Rest 124/78
Immed. p stress 164/88
p stress ____

AFTER EXERCISE PHYSICAL SIGNS:

REASON FOR STOPPING TEST & SYMPTOMS: Fatigue: Chest pain c EKG changes; Arrhythmia; Cerebral symptoms; Misc. reasons
Fatigue, difficulty keeping up

MOTIVATION: Poor ____; Average ____; Above Average X.

EASE OF EXERCISE: Easy ____; Medium ____; Difficult X.

FUNCTIONAL AEROBIC IMPAIRMENT: ____ %

BRUCE PROTOCOL

STAGE	MPH	GRADE	METS	TIME	BP	HR
1	1.7	10%	5			
2	2.5	12%	7			
3	3.4	14%	10			
4	4.2	16%	14			
5	5.0	18%	18			

NAUGHTON PROTOCOL

STAGE	MPG	GRADE	METS	TIME	BP
1	1.0	0%	1.7		
2	2.0	0%	2		
3	2.0	3.5%	3		
4	2.0	7%	4		
5	2.0	10.5%	5		

ARRHYTHMIA: Rest- None
c Exercise Rare, single multifocal

ST/T WAVE EVALUATION:
REST: None
DURING TEST: None
AFTER TEST: None

INTERPRETATION:

1. Sub-max stress test for HR.
2. Average exercise capacity.
3. Rare, single, multifocal PVC's with exercise.
4. Normal systolic BP response, abnormal rise in diastolic.
5. No ischemic ST changes or chest pain was noted.

William T. Maddox M.D.

WHS

Call Ref. MD
Send Copy Ref. MD ✓
Report dictated
Chart ✓
Call to Floor
File ✓
Card. who ordered ✓

EXHIBIT W - 17

ST. JOSEPH'S HOSPITAL, INC.

DATE	DEPT.	TIME	OCT 1 4 1989
		0200	Pt. appears to be sleeping in NAD. — N Hogue RN
		0400	Pt appears to be sleeping c difficulty — N Hogue RN
		0600	awake, A&O, states he slept well. No c/o this AM. Returned to sleep. — N Hogue RN
10-14-89		0800	VS 110/80 - 68 - 16 T96. No c/o pain or dyspnea - lab in & drew blood early. pt. remains NPO for results in case blood must be drawn again - sleeping — R Cauthen RN
		0900	NPO - AM care completed. lungs clear - heart rate regular - No c/o dyspnea or discomfort, color good. skin warm & dry. No edema in extremities - VS qs. Mirp program enforced
		0930	awaiting call from lab — R Cauthen RN
		1000	pt. up in room & to chair pm. Tolerates well - resting quietly & complains — R Cauthen RN
			breakfast & drinks taken well - wife in in chair at present — R Cauthen RN
		1200	VS 96/70 - 64 - 20 T96. No c/o pain or dyspnea - color good - skin warm & dry - pt. VS qs. taking fluids well. T pm to BR pm. wife in

PATIENT PROGRESS RECORD

SJH #38
REV 1/1/78

WALSH, JR, MELVIN C
HELEN 299 0731
335589 58 MAY LUTH
DF FOWLER 10/6/93

ST. JOSEPH'S HOSPITAL, INC.

	EACs clear. TMS normal. No tophi. Nasalmucosa is normal without obstruction or exuate. Pharn clear without exudates or injection. Tongue protrudes in the midline with normal papillatio Teeth in fair repair with several uncompensated extractions.
NECK:	Thyroid not felt. Supple. No carotid bruits o
CHEST:	venous distension at 30 degrees. Symmetrical with adequate expansion and deep inspiration.
LUNGS:	Clear to A & P.
HEART:	No cardiomegaly, gallops, thrills or significant murmurs.
ABDOMEN:	Flat. LSK not felt. No spasm or rebound. No tenderness and normal peristalsis. No organomeg
BACK:	Normal.
GENITALIA & RECTAL:	Deferred.
EXTREMITIES:	No tremor, edema or significant joint defects.
NEUROLOGICAL:	Sensorium is intact as to time, place, and perso and cranial nerves 2 through 12 intact. No moto or sensory deficits. No pathological reflexes.

IMPRESSION:
#1. Chest pain, etiology undetermined. Probably a recent inferior acute MI. #2. HIstory of duodenal ulcer with bleeding in 1980.

DISPOSITION:
The patient was admitted to the hospital for further evaluation and treatment of the above described infections.

D & T:10-6-83 #8

W.B. FOWLER, M.D./tbs

HISTORY & PHYSICAL

WALSH, MELVIN
DR. FOWLER
335589 1035

ST. JOSEPH'S HOSPITAL, INC.

DATE	DEPT.	TIME	
10/14/83	IMCU	2000	Alert and oriented. Lying in bed watching T.V. Skin warm and dry. Color good. No edema noted. V/S 97.4 - pulse irregular - R - 100/70. Visitors in attendance. No chest pain or dyspnea noted. A Panthers
		2200	Lying in bed watching football game. Takes p.o. fluids well. H.O.B.↑. No complaints voiced. A Panthers
10/15/83	IMCU	2400	Sleeping comfortably on right side. H.O.B.↑. Siderails up. Bed in low position. Nightlight on. Call bell in reach. No discomfort noted. A Panthers
		0200	Sleeping comfortably. No distress noted. A Panthers N.T.
		0410	Sleeping comfortably. No discomfort noted. A Panthers
		0600	Continues to sleep comfortably. No dyspnea noted. Fall risk precautions taken. Intake 2180/output 2200 for 24 hour total. Rested well in the night.
			10 14 83 A. Panthers

PATIENT PROGRESS RECORD

UH #38
REV. 1/1/78

WALSH, JR. MELVIN C
HELEN 298 0731
335-09-56 MMK LUTH
[illegible] 10/6/83

10 14 83

[redacted] ST. JOSEPH'S HOSPITAL, INC.

DATE	DEPT.	TIME	
10-14-83		1300	lunch & fluids taken well. resting comfortably - bed & side rails ↑, call bell, phone & urinal within reach R Cauthen LPN
		1400	social worker in - pt alert, cheerful & talkative - wife at bedside - resting quietly at present & complaints R Cauthen LPN
		1600	VS 120/80 - 80 - 16 T 96.4 has visitors constantly & when visitors out - has telephone calls limited visitor sign placed on door - has c/o pain, dyspnea or discomfort - lungs clear - heart rate normal - no edema - color good - skin warm & dry - up to chair - resting quietly - ↑ pm - tolerates well. R Cauthen LPN
		1800	up in chair for dinner - ate well - to BR pm - VSS son in at present - has c/o pain & dyspnea - condition unchanged - resting comfortably at present - fall risk precautions taken R Cauthen LPN

PATIENT PROGRESS RECORD

[redacted] WALSH, JR, MELVIN C
MELEN 298 0731
335599 56 MAN LUTH
DR FOWLER 162 10/7/83

#38
1/1/78

ST. JOSEPH'S HOSPITAL

DATE	TIME	PHYSICAL THERAPY
10/12		Melvin Walsh is a 76 yo WM admitted to
day 4 PM1		SJH 10-6-83 c dx chest pain ? MI
		Dr Bowden referred for MIRP.
		Admission 10-8-83 dx Radionuclide findings for
		acute myocardial damage.
		EKG 10-11-83 1° A-V Block c intermittent 2° A-V block
		today 10-6-83 - normal chart.
		Transferred out of CCU 10-9-83
		S: Pt extremely inquisitive about heart attack.
		Pt reports post exercise program also has
		completed.
		O: Rom-WNL
		Appearance - toned athletic male, no apparent
		mobility independent.
		Explained MIRP program. Resting pulse
		72, regular. MIRP ex 1-4 completed
		p ex 1 pulse T 78 p ex 4 pulse T 82.
		Explained to pt area of heart attack, risk
		factors and his role to help control risk factors
		A: Pt is a cooperative inquisitive male
		problem ↓ C-V endurance, ↓ knowledge of cardiac
		risk and precautions. STG: ↑ C-V endurance, ↑ pt knowledge
		of cardiac risk, vitals, pulse monitoring. Ht 150' x 1 p pulse
		90 beats.
		P: R daily for MIRP ex

Ellen Prenchell
PHYSICAL THERAPY

Walsh, Melvin
335-89

SJH #11 2/83 PROGRESS RECORD

EXHIBIT W - 18

ST. JOSEPH'S HOSPITAL

PHYSICAL THERAPY DEPARTMENT

DATE/TIME: Oct 20, 1983

PHYSICAL THERAPIST: D Davies MPT

PATIENT: Walsh, Melvin

ADM. DATE: 10-6-83

ADM. DIAGNOSIS: Chest Pain - MI

SURGERY: —

REFERRING PHYSICIAN: Dr Fowler

REFERRAL(S): MIRP

PROBLEM(S) IDENTIFIED:
↓ C-V endurance
↓ knowledge of cardiac risk & precautions

GOAL(S) ESTABLISHED (STG, LTG):
↑ C-V Endurance,
↑ pt knowledge of cardiac risk
independent pulse monitoring
at 150 x/ ∓ pulse ↑ 20 beats

TREATMENT PLAN(S):
Daily MIRP.

PHYSICAL THERAPY
DISCHARGE SUMMARY

Walsh, Melvin
335589
Dr Fowler

ST. JOSEPH'S HOSPITAL

DATE	TIME	PHYSICAL THERAPY
10-20-82	AM Cont	Reviewed home walking program, and precautions guidelines etc. Pulse monitoring possible to get accurate count. A: Pt a little more realistic as to need for d/c stress factors & having marked exercise prog. Still has strong drive for doing all normally he has done in past P: Check on in am for d/c.

10 20 82

PHYSICAL THERAPY
PROGRESS RECORD

WALSH, JR, MELVIN L
HELEN 298 0731
335[illegible]

SJH #11 2/83

ST. JOSEPH'S HOSPITAL

DATE	TIME	PHYSICAL THERAPY
10/17/83	10:30 AM	S: Talking at length about his job, knows its stressful but likes it a lot. Also talks about past exercise O: MHP 1225 #2-13 Resting pulse 66, T'd 72 P 6 78 P 9, 80 P 15. Cont in hall ~ 120 ft Independent c distress Practiced P. pulse monitoring c in 2-3 beats/min. P: Cont Daily — Baum PTA
10/14/83	11:35 AM	S: Continues to talk about his job and doing exercises. talks of plans to cont activity. O: MHP exercises #3-13 Resting pulse 72. T'd 78 P 7. 184 P cont in hall around 5th floor at moderate pace A: Pt tends to sidetrack conversations dealing c lung stress and Moderate activity. P: Cont - Baum PTA
10/19		No PT pt leaving c.t. — Baum PTA
10/20	11:45 AM	S: Continues to talk about his desire to health exercise etc. but beginning to realize need for moderation in exs O: Resting pulse 66. Warm up exs knee chest, TKE Trunk rotation (side & Forward) R&L reps each. pulse 72 P exs Cont in hall ~ 200 ft T< ↓ 18 steps pulse 90 P cont.

PHYSICAL THERAPY PROGRESS RECORD

Welch, Melvin
335519

SJH #11 2/83

EXHIBIT W - 20

CPK AND LDH ISOENZYMES

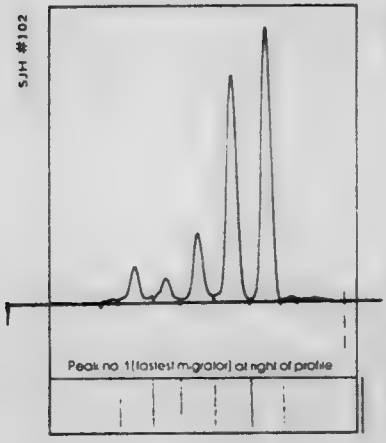
Patient name Walsh, Melvin Doctor Fowler

Hospital no. 335589 Accession no. 5914 Age 56 Sex M Location 1034

Date collected 10/08/83 0555 Date reported 10/08/83 Tech JD

		Normals
Total LDH	355	112-217 IU/L
LDH-1	41	13 - 25%
LDH-2	35	29 - 39%
LDH-3	12	18 - 29%
LDH-4	5	9 - 17%
LDH-5	7	6 - 16%

		Normals
Total CPK	518	0-170 IU/L
mm band	92	> 95%
MB BAND	8	< 5%
CK MB Screen		Negative



Peak no	Percentage
1	40.4
2	34.7
3	12.3
4	5.4
5	7.2
6	
7	
8	
9	
10	
11	
12	

Patient: Walsh, Melvin

Acc. # 5914 Date/time 10/08/83

Test: CPK isoenzymes; LDH-isoenzymes ✓; Serum protein; Lipoprotein

Track number: 1 2 3 4 5 6 7 8

Pathologist's Comments:

diagnostic laboratory findings for acute myocardial damage

Roger W. Morrison, M.D. Raymond J. Squires, M.D. Michael J. Teaford, M.D.

EXHIBIT W - 19

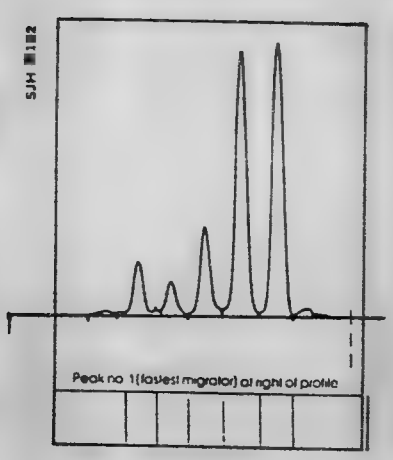
CPK AND LDH ISOENZYM

Patient name Walsh, Melvin Doctor Fowler

Hospital no. 335589 Accession no. 5727 Age 56 Sex M Location 1029-1

Date collected 10/07/83 0610 Date reported 10/07/83 Tech SD

		Normals			Normals
Total LDH	296	112-217 IU/L	Total CPK	866	0-170 IU/L
LDH-1	38	13 - 25%	mm band	88	> 95%
LDH-2	35	29 - 39%	MB BAND	12	< 5%
LDH-3	13	18 - 29%	CK MB Screen		Negative
LDH-4	6	9 - 17%			
LDH-5	8	6 - 16%			



Peak no.	Percentage
1	37.6
2	35.6
3	13.1
4	5.8
5	8.0
6	
7	
8	
9	
10	
11	
12	

Patient: Walsh, Melvin ✓

Acc. #	Date/time
5727	10/07/83

Test

- [ ] CPK-isoenzymes
- [x] LDH-isoenzymes
- [ ] Serum protein
- [ ] Lipoprotein

Track number: 1 2 ✓3 4 5 6 7 8

Pathologist's Comments: Diagnostic of acute myocardial infarction.

Roger W. Morrison, M.D. Raymond J. Squires, M.D. Michael J. Teaford, M.D.

[redacted]

1034

WALSH, JR Melvin C

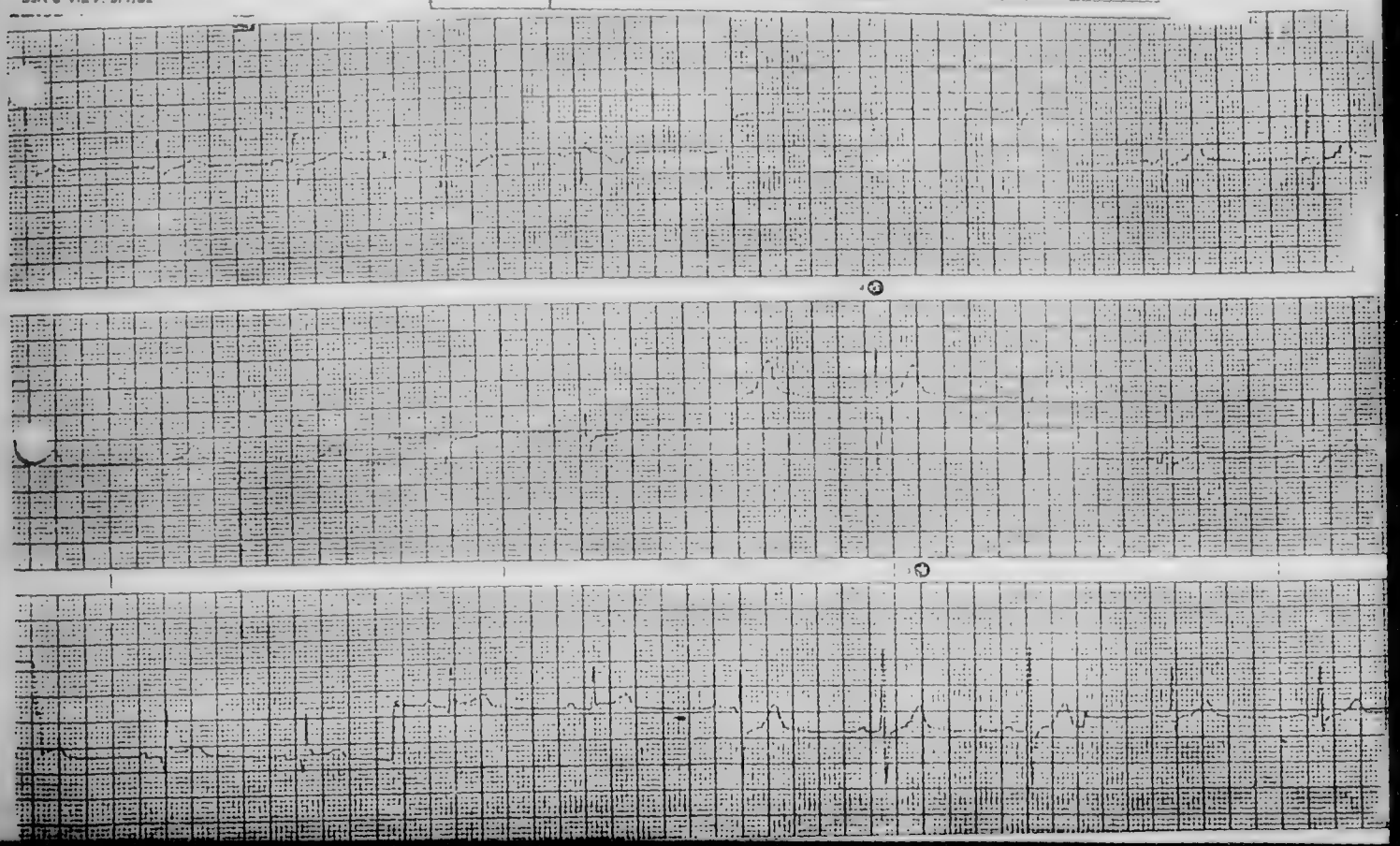
335589

Dr Fowler

SJH 3 REV. 9/1/82

DATE	BP [redacted] AGE 56 HT ____ WT ____
10-7-83	RATE 57 PR .16 QRS .08 QT .38 AXIS +20
TIME	INTERPRETATION: Sinus Bradycardia
15:40	Inferior MI/ prob
TECH	
T.	INTERPRETED BY DR. [signature]

[redacted]



ER

Walsh, Melvin C

901168

Dr. Fowler

13 REV. 9/1/82

DATE	TIME	TECH
10-6-83	0730	N

BP: _____ AGE 56 HT _____ WT _____

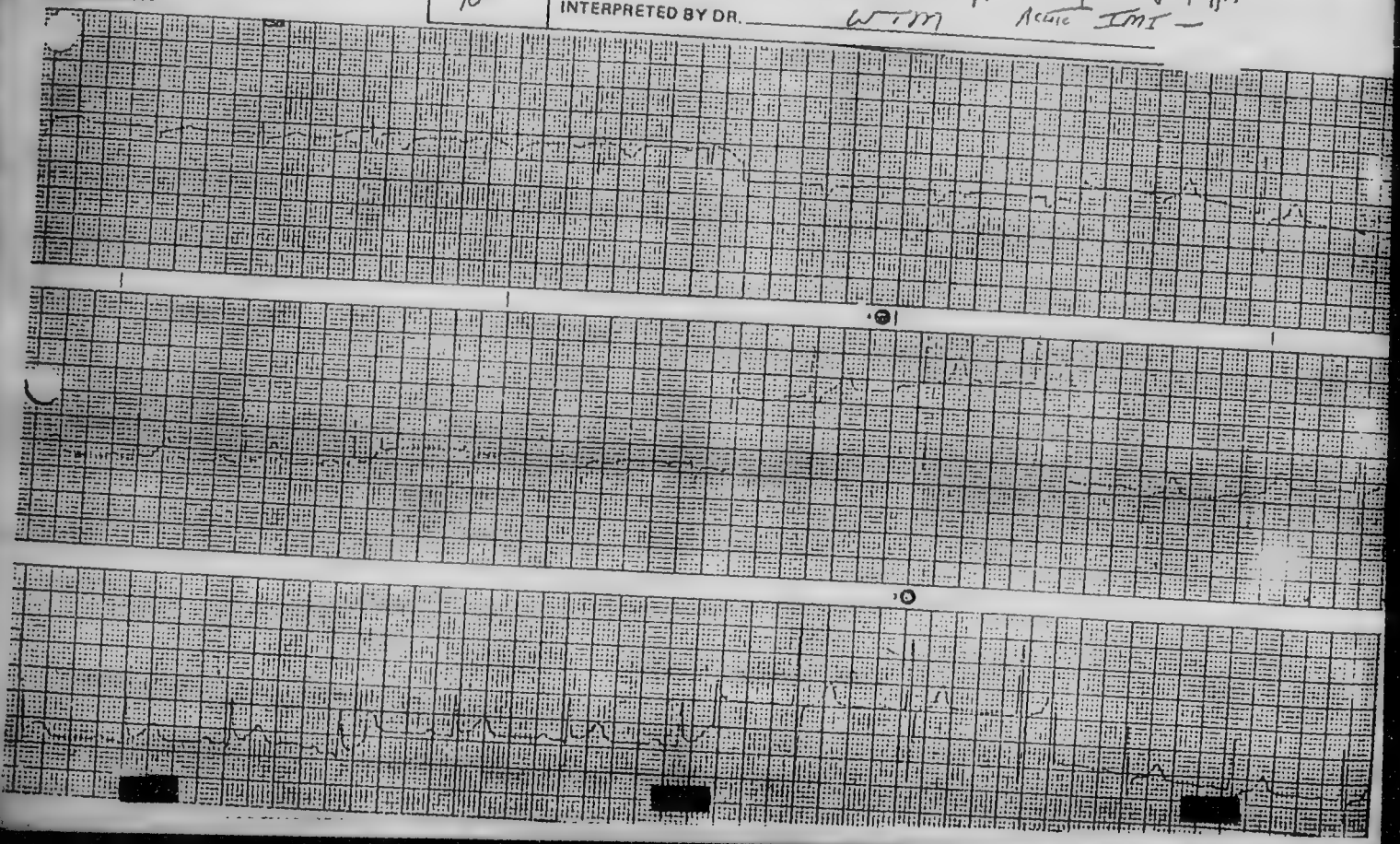
RATE 70 PR 0.20 QRS 0.08 QT 0.34 AXIS +100

INTERPRETATION: NSIR

(R) Axis

ST ↑ inferiorly, No T wave ↓ c. compare, Rpt ECG

INTERPRETED BY DR. WTM Acute MI —



NAME [redacted] 1008

WALSH, JR, MELVIN C.

335589

DR. LITTLEJOHN

SJH 3 REV. 9/1/82

DATE 10-9-83

TIME 13:30

TECH pm

B [redacted] AGE 56 HT ____ WT ____ [redacted]

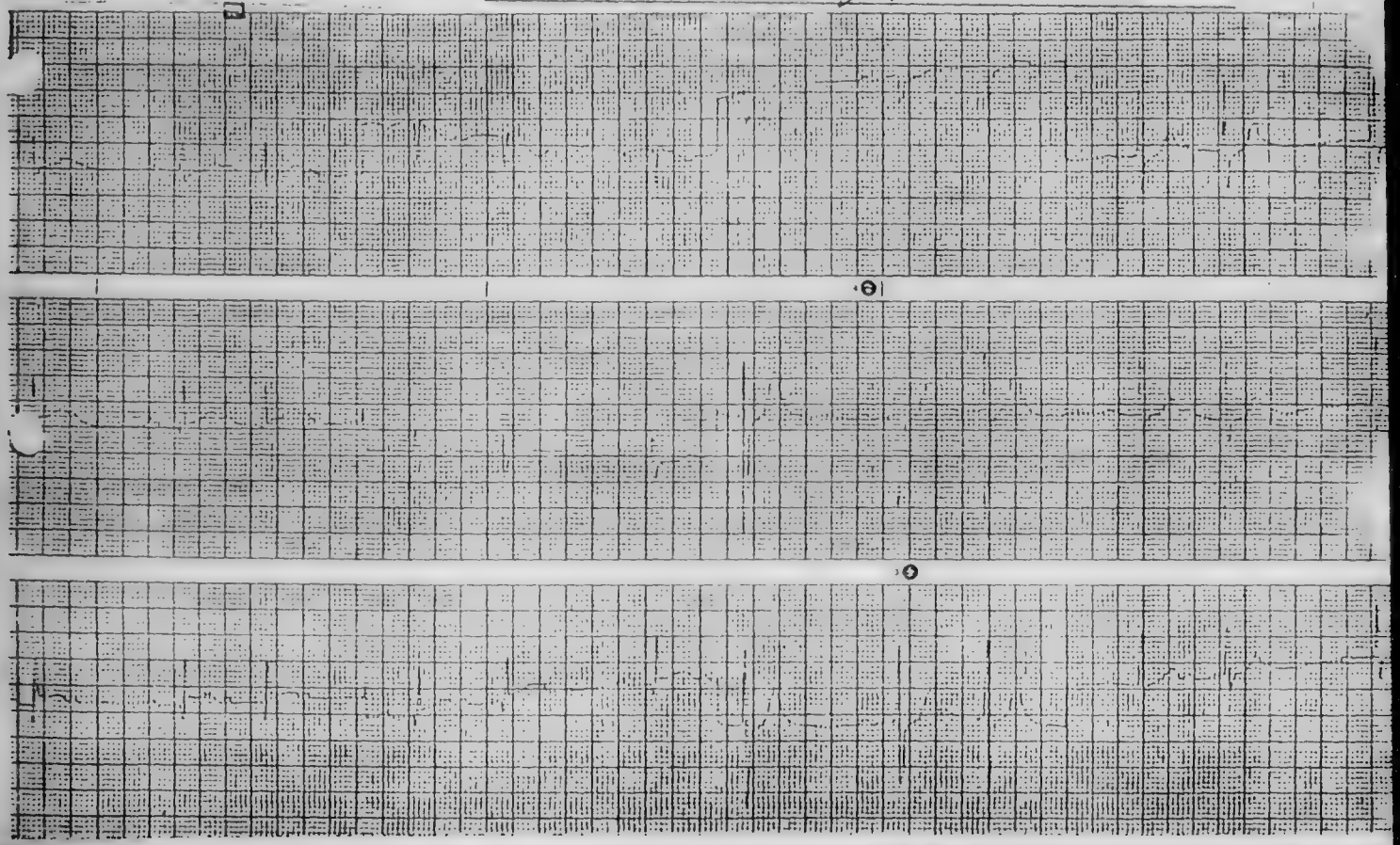
RATE 90 PR .24 QRS .08 QT .34 AXIS +20

INTERPRETATION:

2° AV Block - Mobitz I

Inferior MI

INTERPRETED BY DR. [signature]



EL

1034

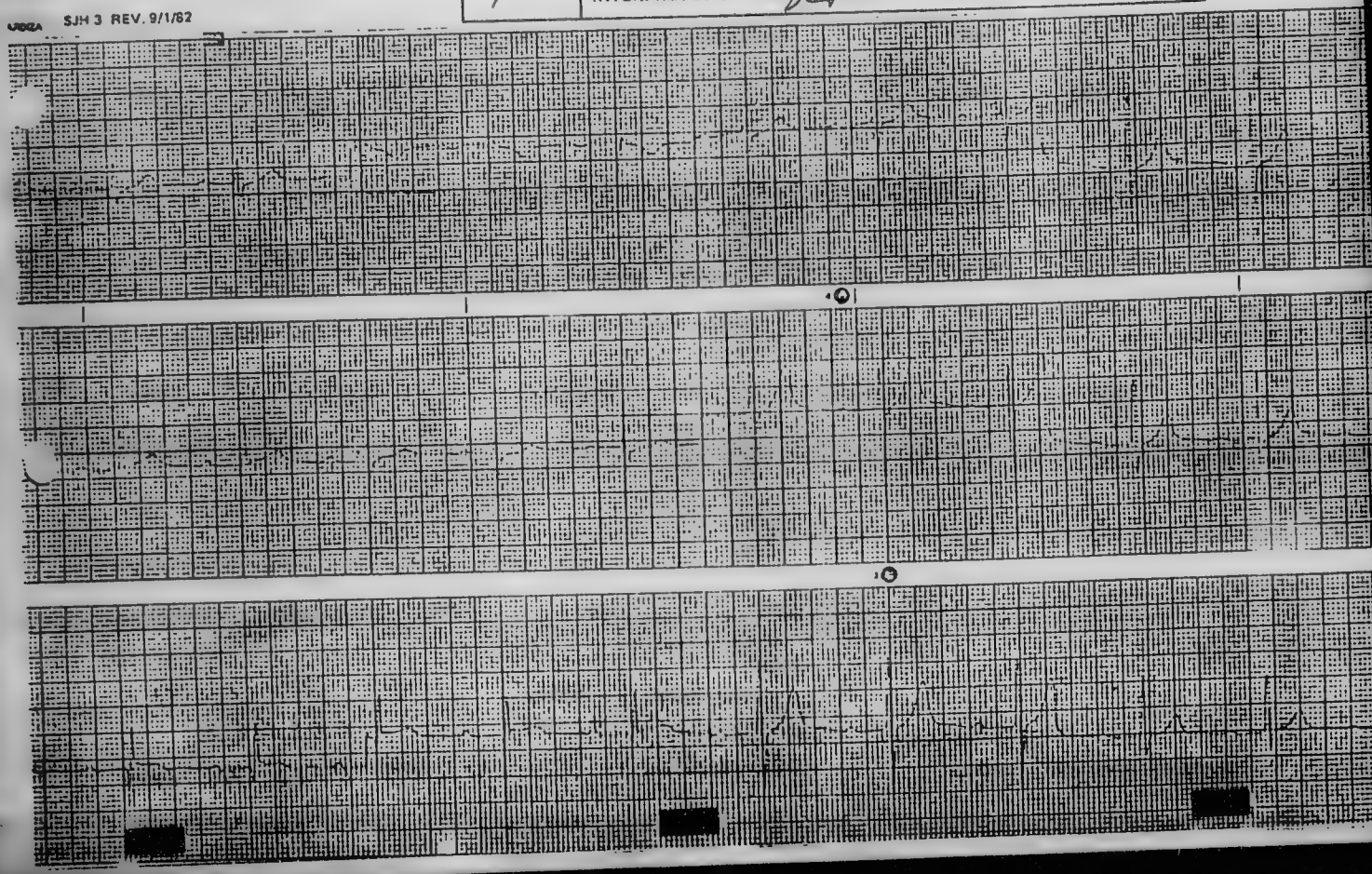
WALSH, JR, MELVIN C.

335589

DR. FOWLER

DATE	BP ___ AGE 56 HT ___ WT ___
10-9-83	RATE 60 PR .32 QRS .08 QT .40 AXIS +20
TIME	INTERPRETATION:
07:10	1° AV Block
TECH	Inferior MI
pm	INTERPRETED BY DR [illegal]

SJH 3 REV. 9/1/82



1035

[redacted] Walsh, Jr. Melvin C.

335589

Dr. Fowler

CJH 3 REV. 9.1.82

DATE 10-11-83

TIME 0625

TECH B

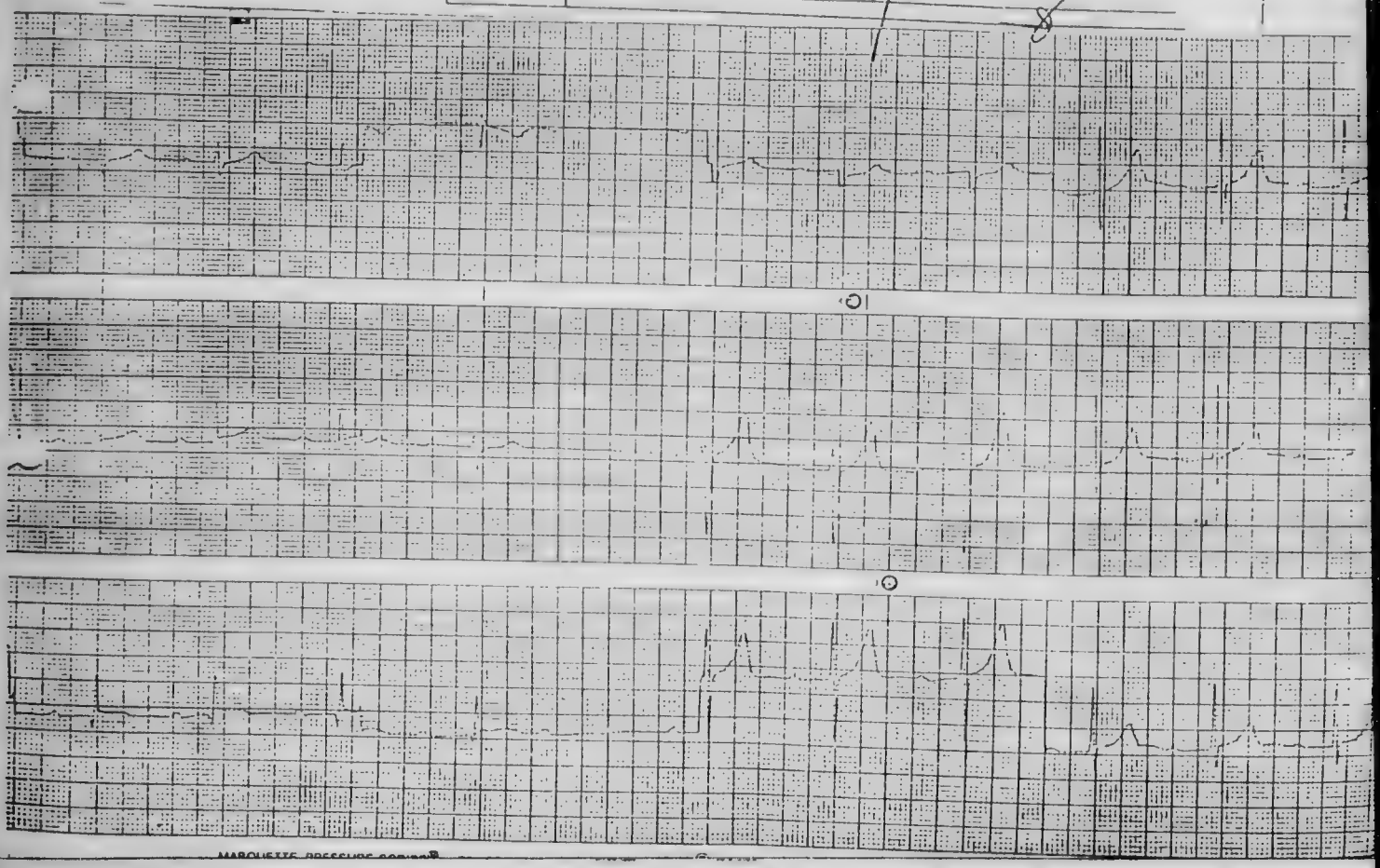
RATE [redacted] PR 28 QRS 08 QT 38 AXIS 70 [redacted]

INTERPRETATION:

1° AV Block c intermittent 2° AV Block

IMI. Unchanged.

INTERPRETED BY DR. Kurt Isenberg



MARQUETTE PRESSURE SYSTEMS

183

Walsh, Jr. Melvin C.

335589

Dr. Soula

SJH 3 REV. 9/1/82

DATE 10-10-83

TIME 0625

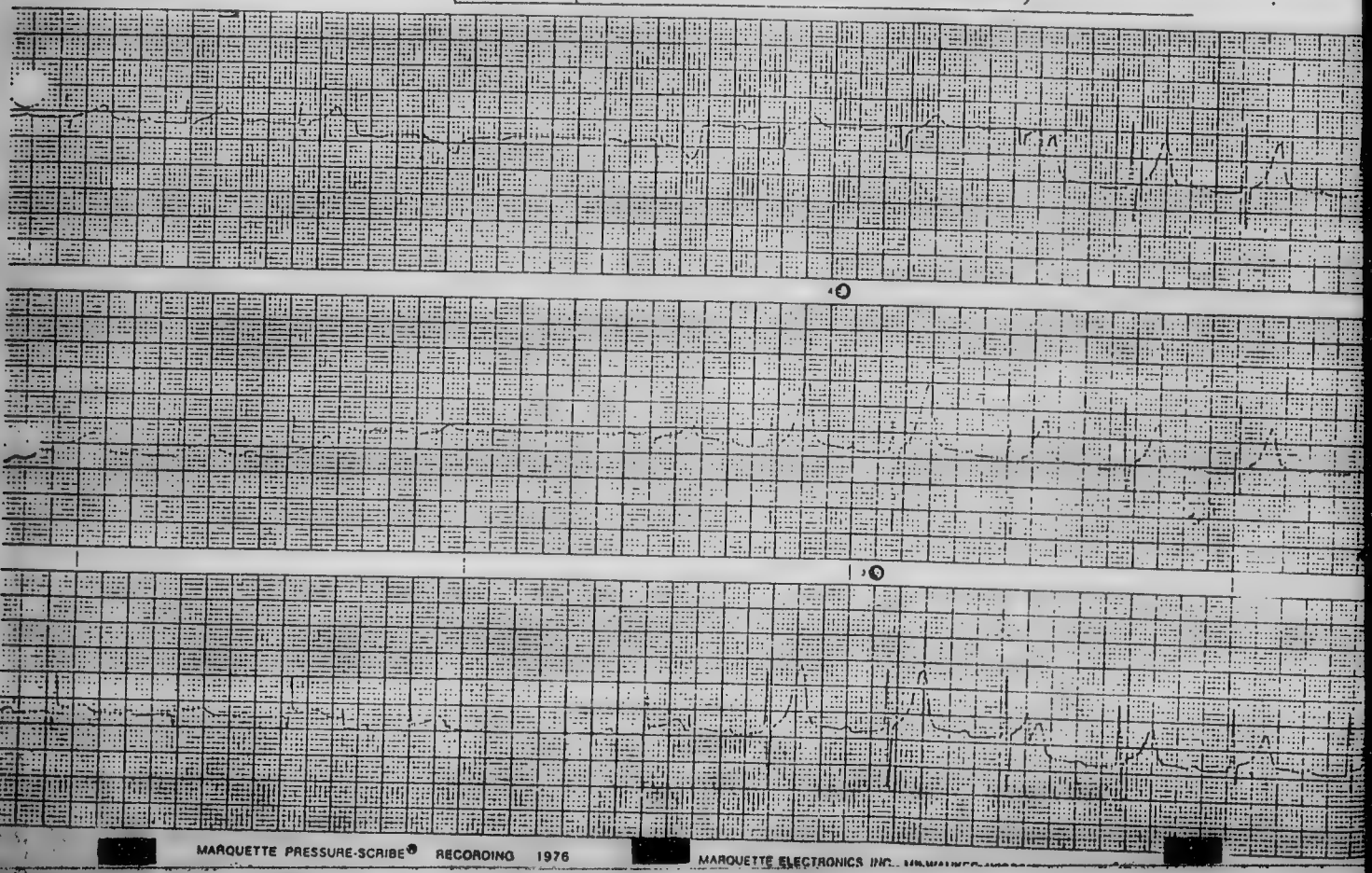
TECH B

RATE 62 PR .56 QRS .08 QT .38 AXIS +60

INTERPRETATION:

1° A-V block with one episode of 2° A-V block - probably Wenkebach type. Anterior injury or infarct. ? Rate changed since 10/7/83

INTERPRETED BY DR. Vedo Samadi, M.D.



MARQUETTE PRESSURE-SCRIBE® RECORDING 1976

MARQUETTE ELECTRONICS INC.

Medical Health Service

EXHIBIT A - 1

1. NAME (LAST) (FIRST) (MIDDLE)	3. SEX	4. AGE	5. DATE
Jr. Walsh Melvin Clenard	M	49	2-12-76

6. ADDRESS	7. HOME PHONE	8. TYPE OF EXAMINATION
6- Middlebrook Dr Asheville N.C.	253-2126	Routine

9. OCCUPATION - TYPE OF WORK	10. DEPARTMENT	12. EMPLOYEE SOCIAL SECURITY NO.	13. DATE OF BIRTH
Patrolman	A.P.D	244-32-5340	12-3-26

14. IN EMERGENCY NOTIFY: NAME	ADDRESS	PHONE	15. NAME OF SPOUSE
Helen Walsh	6-Middlebrook Dr	2482136	Helen

16. PERSONAL PHYSICIAN: NAME ADDRESS PHONE

17. FAMILY HISTORY

PARENT	AGE	STATE OF HEALTH	IF DEAD GIVE CAUSE AND AGE AT DEATH
Father	71	fine	
Mother	--	fine	

18. HAVE ANY BLOOD RELATIVES EVER HAD: (YES OR NO)

RELATIVE	TB	DIABETES	CANCER	HIGH BLOOD PR.	HEART DISEASE	NERVOUS ILLNESS
Father	no	no	no	no	no	no
Mother	no	no	no	no	no	no
Other						

19. HAVE YOU EVER HAD, OR HAVE YOU NOW? (CHECK EVERY ITEM OR WRITE "OK" IF DON'T KNOW)

ITEM	YES	NO	ITEM	YES	NO	ITEM	YES	NO
Inflamed Eyes		✓	Weight Gain or Loss (excessive)		✓	Swollen or Painful Joints		✓
Glaucoma or Cataracts		✓	Poor or Excessive Appetite		✓	"Trick" or Locked Knee		✓
Blurred or Double Vision		✓	Diabetes or Sugar in Urine		✓	Broken Bones or Bone Disease		✓
Eye Injury or Defect		✓	Goiter or Thyroid Disturbance		✓	Foot Trouble		✓
Other Eye Difficulties		✓	Gout		✓	Varicose Veins		✓
Had Your Tonsils Removed?		✓	Anemia or Blood Diseases		✓	Poor Circulation		✓
Nosebleeds (repeated)		✓	Cancer, Cyst, Growth or Tumor		✓	Neuritis		✓
Ringing or Roaring in Ears		✓	Nausea, Vomiting or Sour Stomach		✓	Skin Trouble or Rashes		✓
Deafness or Punctured Ear Drums		✓	Difficulty in Swallowing		✓	Headaches (Freq. or Severe)		✓
Hoarseness (Chronic or Repeated)		✓	Indigestion or "Heartburn"		✓	Dizziness		✓
Hay Fever or Sneezing Spells		✓	Unusual Constipation or Diarrhea		✓	Difficulty in Sleeping		✓
Other Ear, Nose or Throat Trouble		✓	Bloody or Black Bowel Movements		✓	Numbness, Weakness, Fatigue		✓
T.B., Emphysema or Silicosis		✓	Pain in Abdomen		✓	Fainting		✓
Asthma or Chronic Bronchitis		✓	Jaundice or Liver Disease		✓	Convulsion, Epilepsy, "Fits"		✓
Allergy to Foods, Medicine, Shots		✓	Worms or Parasites		✓	Nervous Breakdown		✓
Chronic Cough or Colds		✓	"Stomach Ulcers", Gastritis		✓	Psychiatric Care		✓
Coughing or Vomiting Blood		✓	Gallstones or Gallbladder Trouble		✓	Polio, Meningitis, etc.		✓
Chills, Fever or Night Sweats		✓	"Rupture" or Hernia		✓	Nervousness, Worry, Tension		✓
Shortness of Breath		✓	Hemorrhoids or Rectal Trouble		✓	Are You a Happy Person?	✓	
Choking Sensations		✓	Had Your Appendix Removed		✓	20.		
Chest Pain or Pressure		✓	Frequent, Excessive or Nighttime Urination		✓	FOR WOMEN ONLY		
Shoulder, Arm or Neck Pains		✓	Painful Urination		✓	Do You Menstruate?		
Skipping, Pounding or Racing Heart		✓	Blood in Urine or Kidney Stones		✓	Painful Periods?		
Swelling of Feet, Hands or Face		✓	Difficult or Slow Urination		✓	Periods Regular?		
Rheumatic Fever, or Inflamatory Rheumatism when 13 yrs old	✓		Venereal Disease		✓	Excessive Flow?		
"Heart Attack" or Angina		✓	Backache, Injury or Strain		✓	Bleeding Between Periods?		
High or Low Blood Pressure	✓		Bone or Joint Deformity		✓	Vaginal Discharge?		
			Rheumatism, Arthritis or Bursitis		✓	Are you Pregnant?		
						Female or Breast Trouble?		
						Miscarriages?		
						Cancer Smear Tests?		
						Date of Last Period		

Nurse's Remarks

FORM PD 10

10-1-75

AUG 16 1984

EXHIBIT W - 21

August 16, 1984

MEMORANDUM TO: Bill Slawter
City Attorney

FROM: Lynn Hollifield
Registered Nurse

SUBJECT: Medical Records for Melvin C. Walsh, Jr.

I am sending you a copy of the complete medical file on Melvin C. Walsh, Jr. as requested by you and properly authorized for release by him.

Please note the items circled in red. Mr. Walsh completed the employment history and physical form in his own handwriting on February 16, 1976. He acknowledged he had high blood pressure at that time and signed the form validating the answers to be true to the best of his knowledge.

At the time of the employment physical, his blood pressure is documented at 158/92. Faber's Cyclopedic Medical Dictionary, 1973, defines hypertension (high blood pressure) "in general, if the systolic pressure is above 140 mm of mercury or the diastolic above 90 mm, the person is considered to have elevated blood pressure." On subsequent occasions after employment, Mr. Walsh is recorded as having blood pressure 140/90 or greater.

Also, enclosed are visual and audiometric screening results which were a part of his complete file, but probably have no relation to your needs at the moment.

LH/lbs

Enclosures

Walsh, Melvin Jr.

PHONE: 299-2136

DEPARTMENT: Police

DATE EMPLOYED: 17 yrs.

ADDRESS:

DATE OF BIRTH: 12-3-26

POSITION: Policeman

SOC. SECURITY NO.: 246-32-5540

SEX: M

MARITAL STATUS: M

PHYSICIAN:

ALLERGIES:

NOTIFY IN EMERGENCY: Helen (wife)

SPECIAL FACTS:

Previous Tetanus			Flu Immunizations					Other	

DATE	TIME	INITIAL REFERRAL OR F.U.	REASON FOR VISIT AND TREATMENT	SEEN BY	DISPOSITION			FORMS
					[illegible]	RET WORK	RET CLINIC	[illegible]
[illegible]	[illegible]	[illegible]	[illegible] wt. 176 [illegible] 144/90	FC		-		
1/2	845		wt. 175 BP - 140/90 P. 72 T. 97°	gD		-		
			[illegible]					
12/6	945		wt. 175 BP - 140/90 P. 72 T. 97° Exercising	gD		✓		
[illegible]			wt. 176 BP [illegible] P. [illegible] T. 97.4 F	gD		✓		
12/6/76	832		wt. BP. P.	gD		✓		

FORM PD - 14

10-1-75

	YES	NO	IF "YES" GIVE DETAILS
21. Have You Had or Ever Been Advised To Have any Operations?		✓	
22. Have You Had Military Service? Honorable Discharge?	✓		
Medical or Psychiatric Discharge?		✓	
23. Have You Ever Been Rejected for Military Service or Insurance?		✓	
24. Have You Ever Claimed or Drawn Workman's Compensation?		✓	
25. Do You Draw Disability or Other Pension?		✓	
26. Have You Ever Worked: In Dusty Trades?		✓	
In Chemical Contact or Fume Areas?			
With Radioactive Materials, X-Ray, etc.?			
In Sandblasting or Degreasing Operations?			
In Foundry, Paint Shop or With Lead?			
27. Have You Lost Time from Work Due to Illness or Injury in Past 7 Years?		✓	
28. Has Your Work Ever Been Limited or Restricted Because of Your Health?		✓	
29. Have You Any Physical or Nervous Complaint, Impairment or Disability at Present?		✓	
30. Are You Taking Any Medicine or Drugs Now? If So, For What?		✓	
31. Have You Any Condition Requiring Special Work Assignment Now, or If You Are Hired?		✓	
32. Are You on a Special Diet?		✓	
33.			

34. Would You Say Your Present Health is: ☐ EXCELLENT ☑ GOOD ☐ FAIR ☐ OTHER (Check One)

The preceding answers are true to the best of my knowledge, and I understand this will become part of my medical record.

[redacted] 2.16.16
PATIENT'S SIGNATURE DATE

EMPLOYEE DO NOT WRITE BELOW THIS LINE

1. Physical Check: BP 154/72 Pulse Respiration Ht. 68 Wt. 175

2. Eyes R 20/40 L 20/50 Hearing

Any Noticeable Abnormalities:

[redacted]

1519-2 (1-8-67)

OCCUPATIONAL FORM Form OV7-R

TITMUS Vision Tester

RECORD OF

Name [illegible] No.

Address Date

Occupation Dept.

Age M F Tester Clerk

Rx None Always Bifocal Far Near Special Safety

Last Exam. by Doctor Change in Rx? Yes ☐ No ☐

Difficulty with Vision? Yes ☐ No ☐ Wearing Contact Lens Yes ☐ No ☐

Comments of Subject

Far Point (20 Ft.) Tests

Test No.	Target	1	2	3	4	5	6	7	8	9	10	11	12	13	14
1	Both Eyes	T	R	R	L	T	B	L	R	L	B	R	B	T	R
2	Right	T	L	T	T	B	B	L	B	R	T	R	L	B	R
3	Left	L	R	L	B	R	T	T	B	R	T	B	R	T	L
	Snellen	20	20	20	20	20	20	20	20	20	20	20	20	20	20
	Equivalents	200	100	70	50	40	35	30	25	22	20	18	17	15	13
4	Stereo Depth		1 B	2 L	3 B		4 T	5 T	6 L		7 R	8 L	9 R		
5	Color	A 12		B 5		C 26		D 6		E 16		F ○			
6	Vertical			1	2	3	4	5	6	7					
7	Lateral	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
8	Demonstration Slide														
	Alternate														

	Target	1	2	3	4	5	6	7	8	9	10	11	12	13	14
9	Both Eyes	R	L	T	R	B	R	T	L	T	L	B	R	B	L
10	Right	T	B	T	B	R	T	R	L	B	L	R	R	L	T
11	Left	B	L	B	R	T	L	T	B	R	R	L	R	T	L
12	Lateral	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
	Alternate														

Perimeter Score Right ____ · Left ____ · Total ____ ·

Referred: Yes ☐ No ☐ Professional Signature

Notified ☐ ____ 19 ___

Examined ☐ ____ 19 ___

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OCCUPATIONAL FORM Form OV7-R

TITMUS Vision Tester

RECORD OF

Name [illegible] No.

Address Date 1/31/68

Occupation Dept.

Age M F Tester Clerk

Rx None Always Bifocal Far Near Special Safety

Last Exam. by Doctor Change in Rx? Yes ☐ No ☐

Difficulty with Vision? Yes ☐ No ☐ Wearing Contact Lens Yes ☐ No ☐

Comments of Subject [illegible]

Far Point (20 Ft.) Tests

Test No.	Target	1	2	3	4	5	6	7	8	9	10	11	12	13	14
1	Both Eyes	T	R	R	L	T	B	L	R	L	B	R	B	T	R
2	Right	T	L	T	T	B	B	L	B	R	T	R	L	B	R
3	Left	L	R	L	B	R	T	T	B	R	T	B	R	T	L
	Snellen	20	20	20	20	20	20	20	20	20	20	20	20	20	20
	Equivalents	200	100	70	50	40	35	30	25	22	20	18	17	15	13
4	Stereo Depth		1 B	2 L	3 B		4 T	5 T	6 L		7 R	8 L	9 R		
5	Color	A 12		B 5		C 26		D 6		E 16		F ○			
6	Vertical			1	2	3	4	5	6	7					
7	Lateral	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
8	Demonstration Slide														
	Alternate														

	Target	1	2	3	4	5	6	7	8	9	10	11	12	13	14
9	Both Eyes	R	L	T	R	B	R	T	L	T	L	B	R	B	L
10	Right	T	B	T	B	R	T	R	L	B	L	R	R	L	T
11	Left	B	L	B	R	T	L	T	B	R	R	L	R	T	L
12	Lateral	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
	Alternate														

Perimeter Score Right ____ · Left ____ · Total ____ ·

Referred Yes ☐ No ☐ Professional Signature

Notified ☐ ____ 19 ___

Examined ☐ ____ 19 ___

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OCCUPATIONAL FORM — Form OV7-R

TITMUS Vision Tester

RECORD OF

Name Melvin Welsh No 16

Address Date 7/6/82

Occupation Dept. Yard

Age 65 M ✓ F Tester Clerk

Rx None Always ✓ Bifocal Far Near Special Safety

Last Exam. by Doctor Change in Rx? Yes ☐ No ☐

Difficulty with Vision? Yes ☐ No ☐ Wearing Contact Lens Yes ☐ No ☐

Comments of Subject red 5, blue 5

Far Point (20 Ft.) Tests

Test No.	Target	1	2	3	4	5	6	7	8	9	10	11	12	13	14
1	Both Eyes	T	R	R	L	T	B	L	R	L	L	R	B	T	R
2	Right	T	L	T	T	B	R	L	B	R	L	R	L	B	R
3	Left	L	R	L	B	R	T	T	B	R	L	B	R	T	L
	Snellen	20	20	20	20	20	20	20	20	20	20	20	20	20	20
	Equivalents	200	100	70	50	40	35	30	25	22	20	18	17	15	13
4	Stereo Depth		1 B	2 L	3 B	4 T	5 T	6 L		7 R	8 L	9 R			
5	Color	A 12		B 5		C 26		D 6		E 16		F ○			
6	Vertical			1	2	3	4	5	6	7					
7	Lateral	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
8	Demonstration Slide														
	Alternate														

14" other

	Target	1	2	3	4	5	6	7	8	9	10	11	12	13	14
9	Both Eyes	R	L	T	R	B	R	T	L	T	L	B	R	B	L
10	Right	T	B	T	B	R	T	R	L	B	L	R	R	L	T
11	Left	B	L	B	R	T	L	T	B	R	R	L	R	T	L
12	Lateral	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
	Alternate														

Perimeter Score Right ____ • Left ____ • Total ____ •

Referred: Yes ☐ No ☐ Professional Signature Belsi Titmus Rep

Notified ☐ ____ 19 ___

Examined ☐ ____ 19 ___

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Titmus Optical Co., Inc
Petersburg, Va., U.S.A. 5-68

OCCUPATIONAL FORM — Form OV7-R

TITMUS Vision Tester

RECORD OF

Name [illegible] No

Address Date 2-16-8[illegible]

Occupation Dept.

Age 82 M ✓ F Tester Clerk

Rx ✓ None Always ✓ Bifocal Far Near Special Safety

Last Exam. by Doctor Change in Rx? Yes ☐ No ☐

Difficulty with Vision? Yes ☐ No ☐ Wearing Contact Lens Yes ☐ No ☐

Comments of Subject

Far Point (20 Ft.) Tests

Test No.	Target	1	2	3	4	5	6	7	8	9	10	11	12	13
1	Both Eyes	T	R	R	L	X	B	L	R	X	B	R	B	T
2	Right	T	L	T	T	B	X	X	B	R	T	R	L	B
3	Left	L	R	L	B	X	T	T	B	R	T	B	R	T
	Snellen	20	20	20	20	20	20	20	20	20	20	20	20	20
	Equivalents	200	100	70	50	40	35	30	25	22	20	18	17	15
4	Stereo Depth		1 B	2 L	3 B	4 T	5 T	6 L		7 R	8 L	9 R		
5	Color	A 12		B 5		C 26		D 6		E 16		F ∅		
6	Vertical			1	2	3	4	5	6	7				
7	Lateral	1	2	3	4	5	6	7	8–9		10	11	12	13	14
8	Demonstration Slide														
	Alternate														

14" other

	Target	1	2	3	4	5	6	7	8	9	10	11	12	13
9	Both Eyes	R	L	T	R	B	R	T	L	T	L	X	R	B
10	Right	T	B	T	B	R	T	R	L	B	X	R	R	L
11	Left	B	L	B	R	T	L	X	B	R	X	L	R	T
12	Lateral	1	2	3	4	5	6	7	8	9	10	11	12	13	14
	Alternate														

Perimeter Score Right ____ • Left ____ • Total ____

Referred: Yes ☐ No ☐ Professional Signature

Notified ☐ ____ 19 ___

Examined ☐ ____ 19 ___

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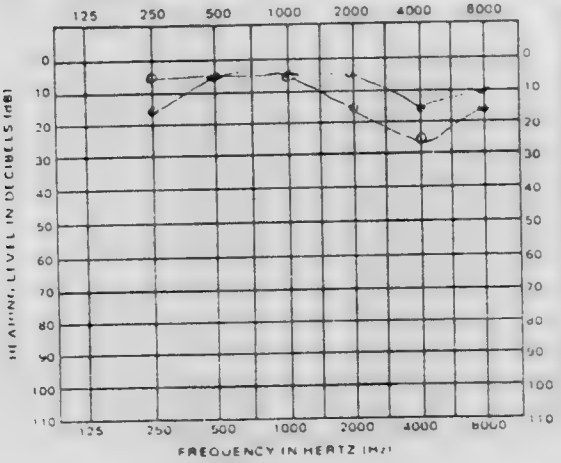
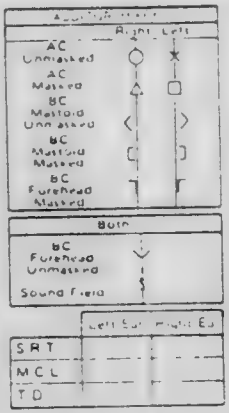
Petersburg, Va., U.S.A. 5-68

AUDIOGRAM

NAME MC Walsh DATE BY





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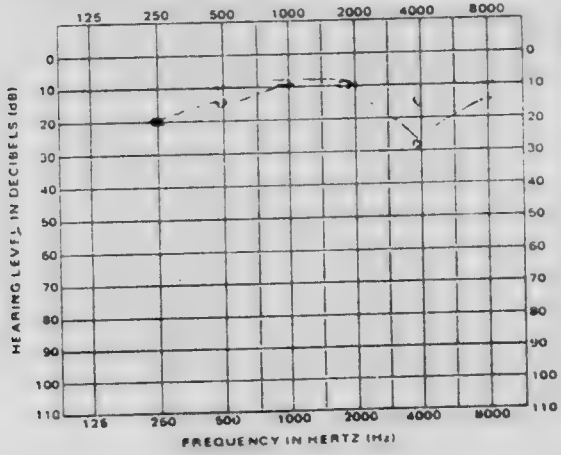
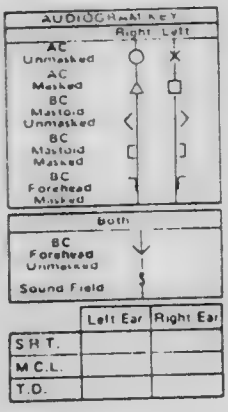
NAME DATE BY





	Left Ear	Right Ear
S.R.T.		
M.C.L.		
T.D.		

NAME Melvin Walsh, Jr. COMPANY EU

SS # TEST DATE 5/6/81 TIME

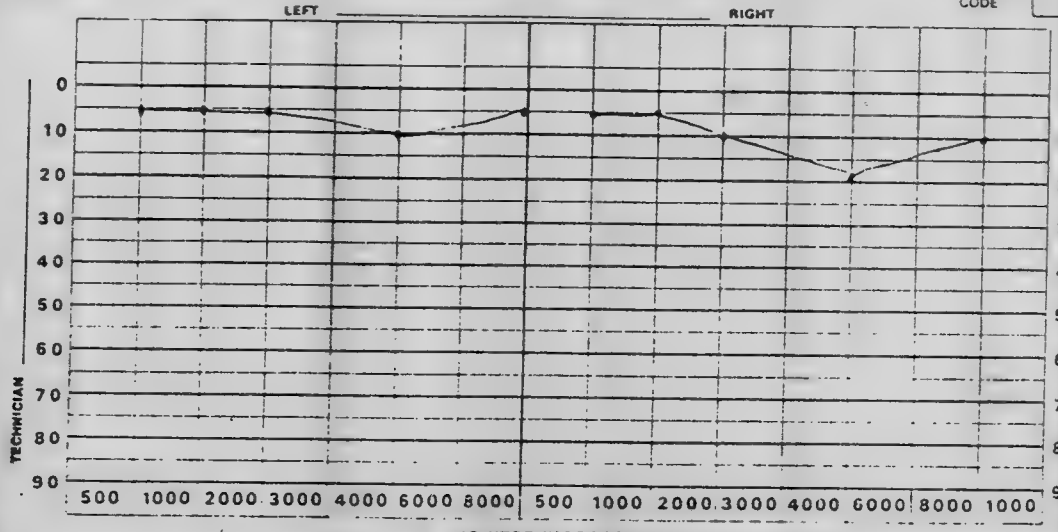
DOB SEX AUDIOMETER S/N

JOB LOCATION STANDARD ANSI ISO ASA

NEW EMPLOYEE ☐
REHIRE ☐
RETEST ☐

CALIBRATION DATE

EVALUATION CODE



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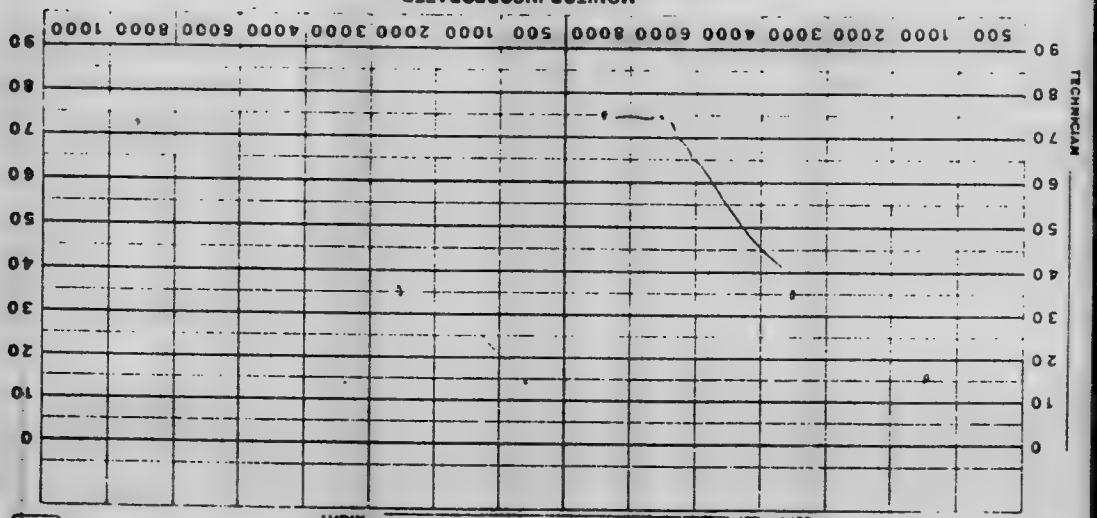

EVALUATION CODE

CALIBRATION DATE

ASA ISO ANSI STANDARD JOB LOCATION

S/N AUDIOMETER SEX 01 DOB

TIME 2-1 TEST DATE 2-15-83 S/S #

COMPANY EU NAME

NEW EMPLOYEE ☐
REHIRE ☐
RETEST ☐

EXHIBIT W - 23

ASHEVILLE POLICEMEN
PENSION AND DISABILITY FUND

THE REGULAR MEETING OF THE BOARD OF EXAMINERS AND THE BOARD OF TRUSTEES OF THE ASHEVILLE POLICEMEN'S PENSION AND DISABILITY FUND WAS HELD ON MONDAY, AUGUST 20, 1984 AT 10:00 A.M. IN THE COUNCIL CHAMBERS OF THE CITY HALL BUILDING. PRESENT WERE: MAYOR LARRY S. MCDEVITT, CHAIRMAN OF THE BOARD OF EXAMINERS; WILLIAM F. WOLCOTT, JR., INTERIM CITY MANAGER; JOHN A. HENDERSON, M.D.; RONALD CHANDLER; MARY LLOYD FRANK, TRUSTEE; PORTER V. FOWLER, JR., TRUSTEE; BILL SLAWTER, LEGAL COUNSEL FOR THE BOARDS; AND LLA LEET L. HUDSON, FRINGE BENEFITS ADMINISTRATOR.

ABSENT: WILLIAM C. FRUE, JR., CHAIRMAN OF THE BOARD OF TRUSTEES (OUT OF TOWN); JAMES H. PARRIS, JR. (HOSPITALIZED).

ALSO PRESENT: MELVIN C. WALSH, JR.; MAX O. COGBURN, ATTORNEY AT LAW; FRED W. HENSLEY, CHIEF OF ASHEVILLE POLICE DEPARTMENT; ROBERT BYRON, M.D.; AND JOHN P. MIALL, JR., EMPLOYEE SERVICES DIVISION HEAD.

THE MINUTES OF THE PREVIOUS MEETING WERE APPROVED AS WRITTEN.

MELVIN C. WALSH, JR.: FURTHER CONSIDERATION OF REQUEST FOR DISABILITY RETIREMENT IN THE LINE OF DUTY.

FURTHER CONSIDERATION WAS GIVEN TO MELVIN C. WALSH'S (JR.) REQUEST FOR DISABILITY RETIREMENT IN THE LINE OF DUTY.

AT A PREVIOUS MEETING, ACTION ON THE REQUEST HAD BEEN DELAYED PENDING RECEIPT OF MEDICAL RECORDS FROM DRS. NAILLING, FOWLER, AND ST. JOSEPH'S HOSPITAL. MRS. HUDSON ADVISED THE BOARD THAT SUCH RECORDS HAD BEEN RECEIVED AND WERE AVAILABLE FOR THE BOARDS' REVIEW. (PRIOR TO THE OPENING OF THE MEETING, THE BOARDS HAD REVIEWED SAME EXTENSIVELY.)

MR. COGBURN, ATTORNEY FOR MR. WALSH, ADVISED THE BOARDS THAT DR. ROBERT BYRON WAS IN ATTENDANCE AND REQUESTED THAT THE BOARDS HEAR TESTIMONY FROM DR. BYRON. THE BOARDS RECOGNIZED/ACKNOWLEDGED THAT DR. BYRON WAS CONSIDERED AN EXPERT IN THE FIELD OF PSYCHIATRY.

DR. BYRON, AFTER BEING SWORN, TESTIFIED TO THE FOLLOWING: HE HAD FIRST EXAMINED MR. WALSH, WHO WAS A PATIENT AT ST. JOSEPH'S HOSPITAL, ON OCTOBER 19 AND 20, 1983 AT THE REQUEST OF THE ATTENDING PHYSICIAN, DR. FOWLER; THE EVALUATION WAS PERFORMED AS A RESULT OF THE BEHAVIORAL RESPONSE TO MR. WALSH'S HAVING SUFFERED A HEART ATTACK AND TO TRY TO DETERMINE WHAT LED TO THE HEART ATTACK AND ILLNESS IN QUESTION; THAT HIS DIAGNOSIS WAS CARDIAC NEUROSIS; HIS FINDING WAS THAT WALSH WAS A VERY INTENSE PERSON AND HE FELT THE INTENSITY WAS DEFINITELY DUE TO STRESSES SUFFERED IN HIS LINE OF WORK AS A POLICE OFFICER; THAT ANY-THING CONNECTED WITH THE PROSPECT OF RETURNING TO WORK WOULD AGAIN CAUSE WALSH TO EXPERIENCE THE SAME ANXIETY; BASICALLY, WALSH WAS (AT THE TIME OF HIS ATTACK) UNDER TWO (2) STRESSES; ONE WAS ANGUISH OVER THE PROMOTION SYSTEM IN THE POLICE AND HIS FEELING OF BEING

OCCUPATIONAL FORM Form OV7-R

TITMUS Vision Tester

RECORD OF

Name Melvin Walsh No 50

Address Date 3/2/61

Occupation Dept. Police

Age M F Tester Clerk

Rx None Always Bifocal Far Near Special Safety

Last Exam. by Doctor Change in Rx? Yes ☐ No ☐

Difficulty with Vision? Yes ☐ No ☐ Wearing Contact Lens Yes ☐ No ☐

Comments of Subject

Test No.	Target	1	2	3	4	5	6	7	8	9	10	11	12	13	14
1	Both Eyes	T	R	R	L	T	B	L	R	L	B	R	B	T	R
2	Right	T	L	T	T	B	B	L	B	R	T	R	L	B	R
3	Left	L	R	L	B	R	T	T	B	R	T	B	R	T	L
	Snellen	20	20	20	20	20	20	20	20	20	20	20	20	20	20
	Equivalents	200	100	70	50	40	35	30	25	22	20	18	17	15	13
4	Stereo Depth		1 B	2 L	3 B		4 T	5 T	6 L		7 R	8 L	9 R		
5	Color	A 12		B 5		C 26		D 6			E 16		F O		
6	Vertical			1	2	3	4	5	6	7					
7	Lateral	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
8	Demonstration Slide														
	Alternate														

	Target	1	2	3	4	5	6	7	8	9	10	11	12	13	14
9	Both Eyes	R	L	T	R	B	R	T	L	T	L	B	R	B	L
10	Right	T	B	T	B	R	T	R	L	B	L	R	R	L	T
11	Left	B	L	B	R	T	L	T	B	R	R	L	R	T	L
12	Lateral	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
	Alternate														

Perimeter Score Right ____ • Left ____ • Total ____ •

Referred: Yes ☐ No ☐ Professional Signature Betsi Dickson, RN

Notified ☐ ____ 19 ____

Examined ☐ ____ 19 ____

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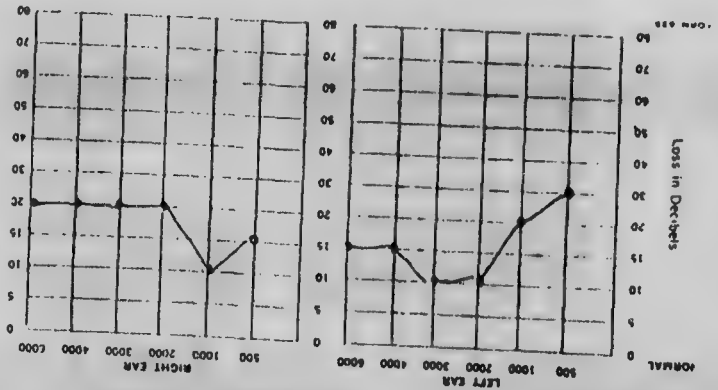


Otometer AUDIOGRAM

[redacted] Melvin Walsh Age 49

ADDRESS

DATE 3/2/61

BY

[redacted]

1222 W. Washington Blvd
Los Angeles, Calif. 90007
(213) 747-5131

AN INTENSE MAN; IT IS PART OF HIS MAKE-UP; AND THAT CAUSED HIM TO HAVE THE HEART ATTACK; THAT WALSH IS NOT ABLE TO WORK AS A POLICE OFFICER; IF HE WERE SENT BACK, WALKED THROUGH THE DOOR, HE WOULD HAVE ANOTHER HEART ATTACK AND DIE.

MR. MCDEVITT THEN QUESTIONED WHETHER OR NOT THE BOARD, SHOULD IT DECIDE THAT WALSH WAS NOT ENTITLED TO A LINE OF DUTY DISABILITY, HAD THE AUTHORITY/POWER TO GRANT A NON-LINE OF DUTY DISABILITY. HIS QUESTION WAS 'SHOULD THE BOARD RULE ONLY ON THE REQUEST BEFORE THE BOARD?'.

MR. COGBURN ADVISED THE BOARD THAT MR. WALSH WAS GOING TO HAVE TO RETIRE; THAT WALSH HAD REQUESTED A LINE OF DUTY DISABILITY; HOWEVER, SHOULD THE BOARD DECIDE AGAINST THAT, HIS CLIENT WOULD ACCEPT THE ALTERNATIVE RETIREMENT OF NON-LINE OF DUTY; THAT IF THE ORIGINAL REQUEST WAS NOT GRANTED, THE BOARD HAD WALSH'S CONSENT FOR THE BOARD TO GRANT THE ALTERNATIVE.

AT THIS TIME, MOTION WAS MADE BY MR. WOLCOTT, SECONDED BY MR. CHANDLER, AND UNANIMOUSLY APPROVED TO HAVE THE BOARD GO INTO EXECUTIVE SESSION FOR DISCUSSION OF MEDICAL EVIDENCE, TESTIMONY, ETC. THAT HAD BEEN PRESENTED.

UPON RETURNING TO OPEN SESSION, MR. MCDEVITT ASKED FOR A MOTION AS TO THE DECISION OF THE BOARD BASED ON ITS FINDINGS. MOTION WAS MADE BY MR. WOLCOTT, SECONDED BY MR. CHANDLER, AND UNANIMOUSLY APPROVED THAT MR. WALSH'S REQUEST FOR DISABILITY RETIREMENT IN THE LINE OF DUTY BE DENIED; HOWEVER, THAT DISABILITY RETIREMENT NOT IN THE LINE OF DUTY BE GRANTED AND THAT THE RECOMMENDATION BE MADE TO THE BOARD OF TRUSTEES.

MR. MCDEVITT, IN CLOSING, STATED THAT WHILE THE BOARD WAS IN EXECUTIVE SESSION, DISCUSSION WAS HELD REGARDING THE ISSUE RAISED AT A PREVIOUS MEETING ASKING THAT DR. HENDERSON REMOVE HIMSELF FROM THE BOARD DURING THE FINDINGS OF THIS CASE; THAT IT WAS THE BOARD'S FEELING THAT DR. HENDERSON'S COMMENT HAD BEEN BASED ON INFORMATION THAT HE (DR. HENDERSON) HAD BEEN FURNISHED PRIOR TO THE MEETING AND HAD NOT BEEN INTENDED TO INDICATE THAT HENDERSON WOULD NOT BE WILLING TO HEAR ADDITIONAL EVIDENCE/TESTIMONY AND MAKE A FAIR DECISION BASED ON ALL THE EVIDENCE; AND FURTHER, THAT IT WAS THE BOARD'S FEELING/DECISION THAT DR. HENDERSON SHOULD NOT 'STEP DOWN' NOR REMOVE HIMSELF FROM THE CASE.

THERE BEING NO FURTHER BUSINESS, THE MEETING WAS UPON MOTION ADJOURNED.

ACTION BY BOARD OF TRUSTEES

THE MEETING OF THE BOARD OF TRUSTEES WAS CALLED TO ORDER AND A QUORUM WAS PRESENT.

TREATED UNFAIRLY BY THE SYSTEM; AND TWO, A CASE THAT HE WAS WORKING ON AT THE TIME OF THE ATTACK WHERE JUSTICE WAS AGAIN BEING THWARTED; THAT IT WAS HIS OPINION THAT THE STRESS OF THE CASE PRECIPITATED WALSH'S HEART ATTACK; THAT IT WAS HIS (BYRON'S) FIRM OPINION THAT WALSH WAS NOT ABLE TO WORK AS AN EFFECTIVE POLICE OFFICER AND THAT IF HE RE-ENTERED THE POLICE DEPARTMENT, WOULD MOST LIKELY HAVE ANOTHER ATTACK.

MR. MCDEVITT QUESTIONED DR. BYRON AS TO WHETHER OR NOT WALSH WAS ABLE TO FUNCTION AS A POLICE OFFICER.

DR. BYRON ADVISED THE BOARDS THAT WALSH, IN HIS OPINION, COULD NOT FUNCTION AS AN OFFICER, SPECIFICALLY AT THE ASHEVILLE POLICE DEPARTMENT, OR IN ANY POLICE/LAW ENFORCEMENT RELATED WORK.

QUESTIONS WERE THEN RAISED AS TO WHETHER WALSH'S STRESS/ANXIETY WOULD HAVE DEVELOPED IN ANY OTHER LINE OF WORK TO WHICH DR. BYRON RESPONDED THAT, BASED ON THE TYPE PERSONALITY WALSH POSSESSED, HE WAS OF THE OPINION THAT WALSH CHOSE LAW ENFORCEMENT; HOWEVER, HE COULD NOT SAY WHETHER OR NOT THE STRESS WOULD HAVE ARISEN HAD WALSH CHOSEN ANY OTHER LINE OF WORK.

MR. COGBURN THEN QUESTIONED DR. BYRON AS TO SPECIFIC DEFINITION OF MYOCARDIAL INFARCTION; DR. BYRON RESPONDED BY SAYING THAT OTHER TERMS OF DEFINING WALSH'S CONDITION COULD HAVE BEEN CARDIOVASCULAR ACCIDENT.

MR. SLAWTER THEN QUESTIONED DR. BYRON REGARDING THE TERM 'CVA'; DR. BYRON RESPONDED BY SAYING THAT 'ACCIDENT' IN THAT SENSE REFERS TO HOW THE ATTACK HAPPENS - THE SUDDENESS OF THE ATTACK. FURTHER QUESTIONS BY MR. SLAWTER REVEALED THAT WALSH HAD NOT HAD ANY UNUSUAL PHYSICAL EXERTION NOR HAD HE BEEN ENGAGED IN ANY PRIOR TO THE ATTACK.

IN HIS SUMMARY STATEMENT, MR. COGBURN STATED TO THE BOARDS THAT HIS CLIENT HAD A HEART ATTACK; THAT HE WAS ON DUTY WHEN THE PAINS OCCURRED; THAT HE WENT HOME; THAT DURING THE NIGHT, HE HAD THE ATTACK; THAT HE WENT TO THE HOSPITAL; THAT WALSH HAD SUFFERED A 'CARDIOVASCULAR ACCIDENT'; AND THAT ACCORDING TO THE LAW, THE TIME, PLACE, ETC. HAD BEEN ESTABLISHED AND THAT WALSH SHOULD BE GRANTED DISABILITY RETIREMENT IN THE LINE OF DUTY.

MR. MCDEVITT ADVISED MR. COGBURN THAT, IF HE HAD NOT REVIEWED THE MEDICAL RECORDS AT THE BOARDS' DISPOSAL, HE (COGBURN) WOULD BE GIVEN THE OPPORTUNITY TO LOOK AT ANYTHING THAT THE BOARDS HAD RECEIVED; THAT HE DID NOT WANT MR. COGBURN TO THINK THAT THE BOARDS HAD INFORMATION AND WOULD NOT REVEAL SAME TO HIM OR HIS CLIENT. FURTHER, MR. MCDEVITT ADVISED MR. COGBURN THAT THE RECORDS/REPORTS RECEIVED BY THE BOARDS' DO NOT ADDRESS ANYTHING OCCURRING ON DUTY; REPORTS SHOWED OCCURRENCE AT 4:30-5:00 A.M. AT HOME.

MR. COGBURN RESPONDED BY SAYING THAT AT THE PREVIOUS MEETING, ROSS ROBINSON HAD TESTIFIED THAT HE SENT WALSH HOME DUE TO HIS HAVING PAINS IN HIS CHEST AND THAT WALSH CORROBORATED THE TESTIMONY; THAT DR. BYRON SAYS WALSH CANNOT WORK AS A POLICE OFFICER; THAT WALSH IS

ASHEVILLE POLICEMEN'S
PENSION AND DISABILITY F.

EXHIBIT W - 24

THE REGULAR MONTHLY MEETING OF THE BOARD OF EXAMINERS AND THE BOARD OF TRUSTEES OF THE ASHEVILLE POLICEMEN'S PENSION AND DISABILITY FUND WAS HELD ON MONDAY, JULY 16, 1984 AT 10:00 A.M. IN THE COUNCIL CHAMBERS OF THE CITY HALL BUILDING. PRESENT WERE: MAYOR LARRY S. MCDEVITT, CHAIRMAN OF THE BOARD OF EXAMINERS; WILLIAM F. WOLCOTT, JR., INTERIM CITY MANAGER; JOHN A. HENDERSON, M.C.; RONALD CHANDLER; WILLIAM C. FRUE, JR., CHAIRMAN OF THE BOARD OF TRUSTEES; MARY LLOYD FRANK; PORTER V. FOWLER, JR.; BILL SLAWTER, COUNSEL TO THE BOARDS; AND LLA LEET L. HUDSON, FRINGE BENEFITS ADMINISTRATOR.

ALSO PRESENT: JOHN P. MIALL, JR.; CLYDE BEAVER; ROSS ROBINSON; HARRY T. ALLISON; MELVIN C. WALSH; MAX O. COGBURN; JOHN BEST.

ABSENT: JAMES H. PARRIS, JR. (RE-CUPERATING FROM SURGERY)

THE MINUTES OF THE PREVIOUS MEETING WERE APPROVED AS WRITTEN.

HAVING BEEN PRESENT DURING THE PRESENTATION OF EVIDENCE TO THE BOARD OF EXAMINERS, MOTION WAS MADE, SECONDED, AND UNANIMOUSLY APPROVED THAT THE RECOMMENDATION OF THE BOARD OF EXAMINERS BE ACCEPTED AND THAT MR. WALSH BE GRANTED A DISABILITY RETIREMENT NOT IN THE LINE OF DUTY TO BE EFFECTIVE SEPTEMBER 01, 1984.

THERE BEING NO FURTHER BUSINESS, THE MEETING WAS UPON MOTION ADJOURNED.

FRINGE BENEFITS ADMINISTRATOR

CHAIRMAN
BOARD OF EXAMINERS

CHAIRMAN
BOARD OF TRUSTEES

HE FURTHER TESTIFIED THAT HE HAD HAD REGULAR MEDICAL CHECKUPS BY DR. NAILLING AND THE CITY INFIRMARY NURSE; THAT HE HAD BEEN EXAMINED TWO OR THREE MONTHS PRIOR TO HAVING HEART ATTACK (IN OCTOBER, 1983); THAT ON THE DATE OF HEART ATTACK, WAS WORKING THE 5 PM TO 1 AM WORK SHIFT; WAS WORKING IN OFFICE MAKING PHONE CALLS RELATED TO CASE HE WAS WORKING ON; THAT HE HAD BEEN WORKING ON THIS PARTICULAR CASE FOR ABOUT THREE WEEKS WHERE AN ELDERLY COUPLE HAD EMPLOYED A YOUNG COUPLE TO TAKE CARE OF THEM ONLY TO FIND THAT MONEY HAD BEEN TAKEN FROM THEM; THAT THE CASE BOTHERED/GOT TO HIM; HE WAS STILL ASSIGNED TO THAT CASE WHEN HE STARTED TO HAVE CHEST PAINS IN THE DETECTIVE OFFICE OF THE POLICE DEPARTMENT; HE THOUGHT IT MIGHT BE INDIGESTION; HOWEVER, PAIN KEPT GETTING WORSE; ALSO HAD PAIN IN LEFT ARM; HE WENT HOME BEFORE MIDNIGHT (AT ADVICE FROM HIS PARTNER, ROSS ROBINSON);WENT DIRECTLY HOME AND LAY DOWN; DOZED OFF; WOKE UP AND FINALLY, AT WIFE'S INSISTENCE, DECIDED TO GO TO HOSPITAL WHERE HE WAS ADMITTED TO INTENSIVE CARE UNIT; DR. FOWLER DIAGNOSED THAT HE HAD HAD A HEART ATTACK; HE WAS CONFINED TO HOSPITAL FOR TWO WEEKS AND TWO DAYS AND WAS STILL UNDER HIS CARE; WHILE IN HOSPITAL, HE HAD TALKED WITH DR. BYRON, WHO HAD BEEN CALLED IN FOR CONSULTATION; THAT HE HAS ALSO TALKED WITH DR. BYRON AFTER HOSPITAL CONFINEMENT; HE IS PRESENTLY TAKING ENDORIL; USING NITRO PADS ON CHEST; CARRIED NITROSTAT; AND IS TAKING VALIUM.

MR. MCDEVITT QUESTIONED MR. WALSH AS TO WHETHER OR NOT HE HAD EVER BEEN DIAGNOSED AS HAVING HIGH BLOOD PRESSURE AND/OR BEEN TREATED FOR SAME.

MR. WALSH STATED THAT HE HAD NOT BEEN TREATED FOR HIGH BLOOD PRESSURE; THAT THE DOCTORS SEEMED NOT TO BE CONCERNED.

MR. MCDEVITT THEN ASKED MR. COGBURN IF HE WAS VIEWING A HEART ATTACK AS AN ACCIDENT; MR. COGBURN ANSWERED IN THE AFFIRMATIVE CITING A COURT CASE (WEAVER VS SWEDISH IMPORTS) SAYING THAT CASE SAYS WHERE A PERSON IS OVER-EXERTING, THEN THE INJURY ARISES OUT OF THE COURSE OF EMPLOYMENT; THAT FURTHER, HE DOES NOT BELIEVE THE LAW CONFINES INJURY TO AN ACCIDENT.

AFTER LENGTHY DISCUSSION, MOTION WAS MADE, SECONDED, AND UNANIMOUSLY APPROVED TO DELAY ANY ACTION ON THE REQUEST UNTIL THE AUGUST 20, 1984 MEETING; FURTHER, REQUEST WAS MADE FOR SUBMISSION OF ALL MEDICAL RECORDS FROM DR. NAILLING, DR. FOWLER, DR. BYRON, AND ST. JOSEPH'S HOSPITAL. THEY FURTHER INSTRUCTED MRS. HUDSON TO MAKE ARRANGEMENTS THROUGH MR. SLAWTER FOR OBTAINING NECESSARY AUTHORIZATIONS FOR RELEASE OF THIS EVIDENCE FROM MR. WALSH.

THERE BEING NO FURTHER BUSINESS, THE MEETING WAS UPON MOTION ADJOURNED.

MELVIN C. WALSH, JR.: CONSIDERATION OF REQUEST FOR DISABILITY RETIREMENT IN THE LINE OF DUTY.

CONSIDERATION WAS GIVEN TO MR. WALSH'S REQUEST FOR DISABILITY RETIREMENT IN THE LINE OF DUTY.

MRS. HUDSON READ LETTERS FROM MR. WALSH REQUESTING DISABILITY AND THE REASON THEREFORE; MAX O. COGBURN, ATTORNEY AT LAW, ADVISING HIS REPRESENTATION OF MR. WALSH AND SUBMISSION OF LETTERS FROM WILLIAM B. FOWLER, M.D. AND ROBERT S. BYRON, M.D.

MR. COGBURN, AT THIS TIME, STATED THAT HE FELT THAT DR. HENDERSON SHOULD NOT SIT ON THE BOARD REFERRING TO A STATEMENT MADE EARLIER IN THE MEETING THAT 'NOTHING HE HAD BEEN PRESENTED RELATING TO EITHER CASE (ALLISON AND WALSH) WAS INDICATIVE OF A DISABILITY RETIREMENT IN THE LINE OF DUTY'; COGBURN FURTHER STATED THAT HE FELT THAT DR. HENDERSON HAD ALREADY MADE HIS MIND UP BEFORE HEARING ALL THE EVIDENCE AND SHOULD THEREFORE STEP DOWN.

DR. HENDERSON ADVISED THE BOARD THAT HE WOULD BE GLAD TO 'STEP DOWN'; HOWEVER, IT WAS THE DECISION OF THE BOARD THAT DR. HENDERSON REMAIN AND HEAR THE EVIDENCE PRESENTED AND THEN A DECISION COULD BE RENDERED AS TO WHETHER OR NOT DR. HENDERSON WOULD VOTE.

MR. WALSH TESTIFIED (UNDER OATH) TO THE FOLLOWING: THAT HE HAD BEEN EMPLOYED BY THE ASHEVILLE POLICE DEPARTMENT SINCE APRIL 01, 1960 AND HAD BEEN CONTINUOUSLY EMPLOYED THERE; THAT IN HIS YEARS OF EMPLOYMENT HE HAD BEEN ABSENT (AFTER EIGHTEEN YEARS) TWO (2) DAY DUE TO BAD COLD; HE HAD BEEN ABSENT FOR A PERIOD AFTER THAT WHILE WORKING IN INTERNAL AFFAIRS WHEN IT WAS DISCOVERED THAT HE SUFFERED FROM ULCERS WHICH HEMORRHAGED AND IT WAS DIAGNOSED, AT THE TIME, DUE TO STRESS.

for the records had been made on August 20, 1979; however, to date, such records had not been received. The Board then requested that Mrs. Hudson make a follow-up call to the Veteran's Administration. Mr. Higgins stated that he would also follow-up on the request.

After brief discussion, in which Dr. Henderson stated that "this Board can again delay action, but I see no purpose in the delay; under the 'Old Law', Mr. Higgins is eligible", motion was made by Dr. Henderson that Mr. Higgins be granted disability retirement in the line of duty. After a review of the medical evidence received, the motion was seconded by Mr. Best. Mr. Michalove stated, in the discussion that followed, that he wanted to be assured by past medical records that this was not a pre-existing condition; and therefore, he would have to vote NO at this time. However, the motion was approved by a 3 to 1 vote with Mr. Biggs, Mr. Best, and Dr. Henderson voting in the affirmative.

RAYMOND G. ARENDALE: FURTHER CONSIDERATION OF REQUEST FOR CHANGE IN STATUS OF DISABILITY RETIREMENT BY SURVIVING SPOUSE.

Further consideration was given to Mrs. Raymond G. Arendale's request for a change in status of disability retirement from not in line of duty to in line of duty.

At a previous meeting, the Board had denied the request of Mrs. Arendale; however, they did advise that they would hear evidence if so requested.

Mr. Marvin P. Pope, Jr., Attorney representing Mrs. Arendale, advised the Board that a search for medical records/data had produced nothing; however, Mrs. Arendale was present and could testify as to her husband's physical condition and answer any questions that the Board might have.

Mrs. Arendale testified that as far as she knew, Mr. Arendale was in excellent physical condition; had not been ill; had taken no sick leave from work; that Mr. Arendale was on call twenty-four hours a day, but did have a regular shift to report to at the Police Department; he died at home prior to going to work; at the time of his death, the Chief of Police at that time, J. C. Hall, advised her as to her benefits; when she requested a copy of the pension plans, she was told that it was not available.

In reviewing the files, the Board noted that Mr. Arendale had taken fifty-two days sick leave in 1957 and questioned Mrs. Arendale as to his sickness at that time. Mrs. Arendale

EXHIBIT W - 25

ASHEVILLE POLICEME
PENSION AND DISABILITY

The Board of Examiners of the Asheville Policemen's Pension and Disability met in regular session on Monday, September 17, 1979 at 10:00 A.M. in the Council Chambers of the City Hall Building. Present were: Mayor Roy M. Trantham, Chairman; John M. Biggs, representative of the Police Department; John Best; John A. Henderson, M.D.; Kenneth M. Michalove, City Manager; Robert J. Robinson, Attorney for the Board; Samuel N. Graves, Director of Employee Services; and Lla Leet Hudson, Fringe Benefits Administrator.

The minutes of the August 20, 1979 meeting were approved as written.

WALTER D. GILCHRIST: FURTHER CONSIDERATION OF REQUEST FOR DISABILITY RETIREMENT IN THE LINE OF DUTY.

Further consideration was given to Walter D. Gilchrist's request for disability retirement in the line of duty.

At a previous meeting, Mr. Gilchrist had been requested to submit medical evidence/data from an orthopedic physician to support a request for disability retirement because of a back injury/strain. Mr. George W. Moore, Attorney representing Mr. Gilchrist, advised the Board that Mr. Gilchrist had recently been hospitalized for tests and examinations related to the back condition; however, no medical reports had been forwarded, to date. Mr. Moore assured the Board that any data would be furnished to them upon receipt from the physician(s). Dr. Henderson advised Mr. Gilchrist and Mr. Moore that in addition to the data, statements should be given by the orthopedic physician(s) that "in their opinion, Mr. Gilchrist has organic disease as a direct result of the injury".

After discussion, motion was made by Mr. Michalove, seconded by Dr. Henderson, and unanimously approved that any action on the request be postponed until further medical evidence is received.

JACK W. HIGGINS: FURTHER CONSIDERATION OF REQUEST FOR DISABILITY RETIREMENT IN THE LINE OF DUTY.

Further consideration was given to Jack W. Higgins' request for disability retirement in the line of duty.

At a previous meeting, the Board had requested that Mr. Higgins submit all service-connected medical records for their review. Mrs. Hudson advised the Board that a request

EXHIBIT W - 26

ASHEVILLE POLICEMEN'S
PENSION AND DISABILITY FUND

The Board of Trustees of the Asheville Policemen's Pension and Disability Fund met in special session on Friday, September 28, 1979 at 10:00 A.M. in the Council Chambers of the City Hall Building. Present were: William C. Frue, Jr., Chairman; F. Jack Cole, Trustee; Walter L. Dillingham, Trustee; Robert J. Robinson, Counsel to the Board; Samuel N. Graves, Director of Employee Services; and Lla Leet L. Hudson, Fringe Benefits Administrator.

Also Present: James E. Ertzberger; Oscar M. Dillingham; Richard C. Roberts; and Jack W. Higgins.

JACK W. HIGGINS: CONSIDERATION OF RECOMMENDATION OF BOARD OF EXAMINERS.

At the September 17, 1979 meeting of the Board of Examiners, approval had been granted (by a 3 to 1 vote) to Jack W. Higgins' request for disability in the line of duty based on medical evidence received by the Board. Mr. Michalove, of the Board of Examiners, had voted in the negative and had requested medical records from VA to assure that the problems had not been pre-existing.

Mr. Higgins presented VA medical records to the Board of Trustees; Board reviewed records noting that diabetes had first been diagnosed in 1971 and that other medical problems had seemingly developed since that time. (Medical problems listed in August 20, 1979 minutes of the Board of Examiners.)

After lengthy discussion in which Mr. Dillingham questioned definition of "Old Law" and also stated that under "New Law" the Board could recall retirees for examination, motion was made by Mr. Cole, seconded by Mr. Frue, and approved by a 2 to 1 vote (Mr. Dillingham voting in the negative) to accept the recommendation of the Board of Examiners and to grant Mr. Higgins' request for disability retirement in the line of duty.

OTHER BUSINESS

At a previous meeting, Mr. Robinson had been requested to seek the opinion of the North Carolina Attorney General regarding the inclusion of longevity pay bonus paid subsequent to retirement in the calculation of "base pay" for disability retirement.

Mr. Robinson presented report to the Board that it was the opinion of the Attorney General's office that under the "Old Law", inclusion of longevity pay bonuses should be made when calculation was done; the Board instructed Mrs.

stated that this was prior to their marriage and she could not testify about that.

After discussion in which it was pointed out that all police officers are "on call 24 hours a day as a part of their duty" and that this was not a special case and because Mr. Arendale was not on duty at the time of his death and that his death was due to ~~normal~~ NATURAL causes, motion was made by Dr. Henderson, seconded by Mr. Best, and unanimously approved that the request of Mrs. Arendale for a change in status of the disability retirement be denied.

Mr. Robinson advised the Board to indicate to Mrs. Arendale and Mr. Pope their avenue of appeal was to the Board of Trustees, which the Board did.

Mr. Pope advised Mrs. Hudson that he was, at this time, giving Notice of Appeal to the Board of Trustees.

There being no further business, the meeting was upon motion adjourned at 10:50 A.M. A complete tape recording of this meeting is on file in the office of the Fringe Benefits Administrator in the Department of Employee Services.

Secretary

Chairman

EXHIBIT W - 28

ASHEVILLE POLIC
PENSION AND DISABILITY FUND

The Board of Examiners of the Asheville Policemen's Pension and Disability Fund met in regular session on Monday, August 20, 1979 at 10:00 A.M. in the Council Chambers of the City Hall Building. Present were: Mayor Roy M. Trantham, Chairmen; John M. Biggs, representative of the Police Department; Dr. John A. Henderson, M. D.; Kenneth M. Michalove, City Manager; Robert J. Robinson, Attorney at Law/Legal Counsel of the Board; Samuel N. Graves, Director of Employee Services; and Lla Leet L. Hudson, Fringe Benefits Administrator.

Also present: Officers Jack W. Higgins and Harold E. Newsome.

Absent: John Best (confinement in hospital).

REQUEST/REPLY - NORTH CAROLINA ATTORNEY GENERAL

At a previous meeting, the Board had requested that Mr. Robinson seek an opinion from the Attorney General of North Carolina as to whether requests/cases pending before the Board should be considered under the guidelines set forth in the "Old Law" (Chapter 188 of 1977 Session Laws of North Carolina General Assembly) or "New Law" (Chapter 429 of 1979 Session Laws of North Carolina General Assembly). Copies of the request and the reply were presented to the Board by Mr. Robinson.

In the reply, Ms. Norma Harrell, Assistant Attorney General, stated that "it is the opinion of this office that applications based on alleged disabilities occuring before April 20, 1979, the date on which the provisions of the Asheville Policemen's Pension and Disability Fund were amended, should be considered under the statutory provisions as they existed at the time the disability occurred."

WALTER D. GILCHRIST: FURTHER CONSIDERATION OF REQUEST FOR DISABILITY RETIREMENT IN THE LINE OF DUTY.

Further consideration was given to Walter D. Gilchrist's request for disability retirement in the line of duty.

At a previous meeting, after review of medical evidence indicating that Mr. Gilchrist was a diabetic unable to perform the spontaneous, rigorous, apprehensive duties of a police officer, the Board had recommended that Mr. Gilchrist be granted a temporary disability retirement not in the line of duty. (The recommendation was approved by the Board of Trustees to be effective June 1, 1979.)

**ASHEVILLE POLICEMEN'S
PENSION AND DISABILITY FUND**

The Board of Trustees of the Asheville Policemen's Pension and Disability Fund met in regular session on Friday, August 24, 1979 at 10:00 A.M. in the Council Chambers of the City Hall Building. Present were: William C. Frue, Jr., Chairman; Walter L. Dillingham, representative of the Police Department; F. Jack Cole, Councilman; Robert J. Robinson, Attorney for the Board; Samuel N. Graves, Director of Employee Services; and Lla Leet L. Hudson, Fringe Benefits Administrator.

HAROLD E. NEWSOME: CONSIDERATION OF RECOMMENDATION OF BOARD OF EXAMINERS TO GRANT REQUEST FOR DISABILITY RETIREMENT IN THE LINE OF DUTY.

As reported in the minutes of the August 20, 1979 meeting of the Board of Examiners, recommendation for approval of Harold E. Newsome's request for disability retirement in the line of duty had been made pending receipt of a second physician's medical report (to be submitted prior to this meeting).

Mrs. Hudson advised the Board that such report had been received from Dr. Wade H. Saunders, III, M.D., and that the report had been forwarded to members of the Board for their review.

After discussion, motion was made by Mr. Cole, seconded by Mr. Dillingham, and unanimously approved that the recommendation of the Board of Examiners be accepted and that Mr. Newsome be granted disability retirement in the line of duty.

LAWRENCE B. TREXLER, JR.)
RAY E. JARRETT)
RAYMOND G. ARENDALE)
CONSIDERATION OF RECOMMENDATION OF BOARD OF EXAMINERS TO DENY REQUEST FOR CHANGE IN STATUS OF DISABILITY RETIREMENT.

As reported in the minutes, the Board of Examiners had recommended that the requests of Lawrence B. Trexler, Jr., surviving spouse of Ray E. Jarrett, and surviving spouse of Raymond G. Arendale for a change in status of disability retirement from not in line of duty to in the line of duty be denied.

After discussion in which it was noted by Mr. Robinson that the Board of Examiners had made such recommendation but had also agreed to hear any evidence that might be submitted, motion was made by Mr. Dillingham, seconded by Mr. Cole, and unanimously approved that the recommendation of the Board of Examiners be accepted and that the requests for change in status of disability retirement be denied.

After further discussion, Mr. Michalove requested that the motion be amended to state that recommendation to grant Mr. Newsome's request be made to the Board of Trustees pending receipt of a second physician's diagnosis/opinion. Such amendment was made to the original motion by Mr. Michalove, seconded by Dr. Henderson, and unanimously approved. Mr. Newsome is to submit such report prior to the meeting of the Board of Trustees.

JACK W. HIGGINS: FURTHER CONSIDERATION OF REQUEST FOR DISABILITY RETIREMENT IN THE LINE OF DUTY.

Further consideration was given to Jack W. Higgins' request for disability retirement in the line of duty.

At a previous meeting, the Board had recommended that Mr. Higgins be granted a temporary disability retirement not in the line of duty when all sick leave had been exhausted, and had advised Mr. Higgins that his request would be reviewed upon receipt of the opinion of Attorney General.

Mrs. Hudson reviewed the case to date. She advised the Board that a letter dated March 2, 1979 had been received from Dr. Lewis C. Sommerville, M.D. In his letter, Dr. Sommerville stated that Mr. Higgins had been a patient, having seen him last in December, 1973; since that time, he had been receiving medical care from Oteen Veterans Hospital; at the time under his care, Mr. Higgins was a known diabetic, suffered from high blood pressure, and was overweight; since that time, condition has been about the same, but has developed some episodes of staggering and more visual disturbances. Dr. Sommerville also stated that he felt that Mr. Higgins' disease was progressing. Mrs. Hudson further advised that a hospital summary from Oteen Veterans Hospital had been received. The report/summary stated that Mr. Higgins has had insulin-requiring diabetes since 1970; was admitted to the hospital for investigation concerning frequent episodes of staggering with dizziness, but not true vertigo; also had complaints of weakness in right leg and right calf and knee frequently ache; complaints of occasional blurring of vision unrelated to staggering episodes. Physical examination revealed that he was normotensive and obese; appeared to be slightly decreased power in right arm, right leg and right eyelid although facial grimace was normal; no abnormality shown by skull x-ray and brain scan; possibility that symptoms of weakness on right side are related to an old stroke and staggering attacks might also be related to this, although

The Board further advised Mr. Gilchrist that this temporary disability retirement would be reviewed upon receipt of an opinion from the Attorney General. He was also advised that if he wished to pursue his request for a line of duty disability retirement because of a back strain (in addition to his diabetic condition) further medical evidence from an orthopedic physician would be needed.

Mrs. Hudson advised the Board that a report from Dr. D. L. Jarrett, M.D., had been received and presented it to the Board.

After review and discussion as to what condition Mr. Gilchrist was requesting disability retirement for, motion was made by Mr. Michalove, seconded by Dr. Henderson, and unanimously approved that any action be postponed as Mr. Gilchrist and his attorney were not present.

HAROLD E. NEWSOME: FURTHER CONSIDERATION OF REQUEST FOR DISABILITY RETIREMENT IN THE LINE OF DUTY.

Further consideration was given to Harold E. Newsome's request for disability retirement in the line of duty.

At a previous meeting, the Board had recommended that Mr. Newsome be placed on temporary disability retirement not in the line of duty when all sick leave had been exhausted, and had advised Mr. Newsome that his request would be reviewed upon receipt of the opinion from Attorney General.

Mrs. Hudson reviewed the case to date, stating that a letter had been received from Dr. Zebulon Weaver, III, M.D., on May 14, 1979 in answer to the Medical Questionnaire. Dr. Weaver stated that Mr. Newsome had been in excellent health until 02/12/79 when he experienced severe chest pain; he was admitted to Memorial Mission Hospital and a diagnosis of acute myocardial infarction was made.

After discussion, motion was made by Dr. Henderson and seconded by Mr. Biggs to recommend to the Board of Trustees that Mr. Newsome's request for disability retirement in the line of duty be granted. Dr. Henderson stated that "he is disabled and we have no choice but to grant (his request) under the 'Old Law'". Mr. Michalove noted that, to date, only one (1) physician's diagnosis/opinion had been received and that it was the administrative requirement of the Board to receive at least two (2) such opinions.

WALTER D. GILCHRIST: FURTHER CONSIDERATION OF REQUEST(S) FOR DISABILITY
JACK W. HIGGINS: RETIREMENT IN THE LINE OF DUTY.
HAROLD E. NEWSOME:

Further consideration was given to request(s) for disability retirement in the line of duty submitted by Walter D. Gilchrist, Jack W. Higgins, and Harold E. Newsome.

After brief discussion in which it was noted that sick leave benefits would soon be exhausted if no decision was forthcoming, motion was made by Dr. Henderson, seconded by Mr. Best, and unanimously approved that the claimants be granted temporary disability retirement not in the line of duty pending receipt of the requested opinion from the Attorney General; the Board to retain jurisdiction of the matter for further consideration after such receipt of opinion. Such retirement benefits are to begin when sick leave for each has been exhausted. Mr. Gilchrist was also instructed to provide additional medical evidence from an orthopaedic surgeon to prove disability relating to his back was from injury.

ACTION BY BOARD OF TRUSTEES:

Walter D. Gilchrist: Motion was made by Mr. Cole, seconded by Mr. Dillingham, and unanimously approved to concur with the findings of the Board of Examiners and to grant Mr. Gilchrist disability retirement not in the line of duty.

Jack W. Higgins: Motion was made by Mr. Cole, seconded by Mr. Dillingham, and unanimously approved to concur with the findings of the Board of Examiners and to grant Mr. Higgins disability retirement not in the line of duty to be effective when sick leave benefits exhausted.

Harold E. Newsome: Motion was made by Mr. Cole, seconded by Mr. Frue, and approved by a two to one (2 to 1) vote to concur with the findings of the Board of Examiners and to grant Mr. Newsome disability retirement not in the line of duty to be effective when sick leave benefits exhausted. Mr. Dillingham voted negatively on the motion stating that Mr. Newsome had his heart attack while on duty.

It was noted that Mr. Gilchrist had been off the payroll for some time having already exhausted sick leave benefits; therefore, it was the decision of the Board to grant Mr. Gilchrist retirement benefits retroactively to June 01, 1979.

Mr. Frue explained to Mr. Newsome that by affirming the decision of the Board of Examiners with regard to the non-line of duty disability retirement in no way meant that the Board was divesting themselves of the right to reconsider or make further determination of the request pending receipt of the Attorney General's opinion and that hopefully, such decision could be made at the next meeting.

possibility of tumor in left hemisphere; also possibility that staggering attacks are related to some type of temporal lobe seizure; EEG ordered; patient has been declared totally disabled for his work as a policeman unless some correctable cause for the staggering attacks can be found; physician (H. Hope-Gill) concurs.

After the review, motion was made by Dr. Henderson and seconded by Mr. Biggs that Mr. Higgins' request for disability retirement be granted. In the discussion that followed, Mr. Michalove asked what connection to line of duty was this; Dr. Henderson stated that "under the 'Old Law', it was not required to be work-related; only that it have its origin during employment." Mr. Michalove then raised the question and/or possibility of the condition pre-existing date of employment. Mr. Higgins stated that onset of condition was after his date of employment. Mr. Michalove noted that Mr. Higgins was an ex-serviceman and asked if he would provide the Board with all service-connected medical records to verify his testimony that no prior medical condition existed.

Mr. Michalove then made a motion to ask that Mr. Higgins' service-connected records be provided. Dr. Henderson noted that the original motion (request for disability retirement be granted) was still on the floor; however, Mr. Biggs withdrew his second and the original motion died for lack of a second.

Mr. Michalove again made a motion asking for all service-connected records to be provided; motion was seconded by Mr. Biggs. The motion was approved by a 2 to 1 vote with Dr. Henderson opposing.

LAWRENCE B. TREXLER, JR.)	FURTHER CONSIDERATION OF REQUEST
RAY E. JARRETT)	FOR CHANGE IN STATUS OF DISABILITY
RAYMOND G. ARENDALE)	RETIREMENT TO IN LINE OF DUTY.

Further consideration was given to the above three (3) requests for a change in status of disability retirement from not in line of duty to in line of duty.

Mr. Robinson advised the Board that Marvin Pope, attorney representing Mrs. Arendale, was out of town and had asked that any action on this request be postponed.

However, after brief discussion, motion was made by Dr. Henderson, seconded by Mr. Michalove, and unanimously approved that the requests of Lawrence B. Trexler, Jr., sur-

This Fund was to be created in this manner:

> The City Accountant was required to deduct two (2%) per cent of the monthly salary of Asheville Policemen and to pay the funds so deducted into the "Policeman's Pension Fund" of which the Mayor of the City of Asheville was designated custodian. Then, on July 1, 1939 and each twelve (12) months thereafter, the City was to pay to the Fund "two (2%) per cent of the total payroll of the Police Department for the twelve (12) months of the succeeding (sic) fiscal year"

After dealing with retirement of policemen based upon chronological age and years of service as a member of the Asheville Police Department, this Act provided for compensation to any policeman who, after three (3) or more years service on the Asheville Police Force, might thereafter become disabled and to his unremarried widow if he should die as the result of the disability. (Sections 7 & 8)

Two classifications of disablement were created:

(1) First, if any Member of the Asheville Police Department became "disabled while acting in the line of his police duties and is unable to work, he shall receive each month during such disability an amount equal to his full monthly salary as paid by the City of Asheville," and

(2) If any member of the Asheville Police Department "becomes disabled not in line of duty, he shall receive annually a sum equal to three and one-half (3-1/2%) per cent of his total earnings from the beginning of his service on the Asheville Police Department to the time of his disability".

(B) RELEVANT AMENDMENTS BEFORE 1960

While Chapter 242 of the Public Local Laws of 1939 was amended by Chapter 311 of the Session Laws of 1945, those amendments simply made it clear that provisions of the pension fund covered only those men employed by the City of Asheville and assigned to the Police Department of the City of Asheville and that temporary or other employees were not covered. Additionally, this 1945 amendatory statute allowed the Pension Board to invest any surplus funds in certain designated investments.

The only significant relevant amendments to Chapter 242 of the Public-Local Laws of 1939 made prior to April 1, 1960 were made by Chapter 322 of the Session Laws of 1955. That statute increased from two (2%) per cent to five (5%) per cent the amount which the County Accountant was authorized to deduct from the monthly salary of every man on the City Payroll of the Police Department of the City of Asheville and required that One ($1.00) Dollar from costs collected in each case disposed of in the Asheville Police Court be paid to the Asheville Policemen's Pension and Disability Fund.

1. Then, the 1955 Act reduced the amount to be received by a policeman for disability in line of duty from "his full monthly salary" to "seventy (70%) per cent of his monthly salary as then paid by the City of Asheville".

IN THE MATTER OF THE APPEAL
OF MELVIN C. WALSH, JR.
FROM THAT PORTION OF THE DECISION
OF THE BOARD OF EXAMINERS AND THE BOARD OF TRUSTEES
OF THE ASHEVILLE POLICEMEN'S PENSION AND DISABILITY
FUND WHICH DETERMINED THAT THE DISABILITY FOR WHICH HE WAS GRANTED RETIREMENT
EFFECTIVE SEPTEMBER 1, 1984, WAS NOT IN THE LINE OF DUTY

MEMORANDUM TO ASHEVILLE CITY COUNCIL

MELVIN C. WALSH, JR. became a Member of the Asheville Police Department on April 1, 1960. From that date until October 5, 1983, Mr. Walsh continuously served as a member of that Department.

On October 5, 1983, while on duty with the Asheville Police Department, he suffered a disabling heart attack. Being unable to return to active service as a policeman for the City of Asheville, Mr. Walsh made application to the Board of Examiners and Board of Trustees of Asheville Policemen's Pension and Disability Fund that he be granted retirement from the Asheville Police Department by reason of his having become disabled while acting in the line of duty.

After conducting a Hearing on August 20, 1984, the Board of Examiners entered its Decision to deny his request for disability retirement in the line of duty but to recommend to the Board of Trustees that he be retired for disability not in the line of duty. Following that meeting of the Board of Examiners, the Board of Trustees met and rendered its Decision to accept the recommendation of the Board of Examiners that Mr. Walsh be granted a disability retirement not in the line of duty to be effective September 1, 1984.

Mr. Walsh was advised of these Decisions by letter dated August 28, 1984. Thereafter, on September 6, 1984, and within ten (10) days of receipt of the letter of August 28, 1984, Mr. Walsh filed his Appeal to the Asheville City Council for review of that portion of the Decision of the Board of Examiners, concurred in by the Decision of the Board of Trustees, that the disability for which he has been granted retirement was not in the line of duty.

(A) THE BACKGROUND

Provision of a fund for payment of compensation to retired and disabled Police Officers of the City of Asheville came with the enactment of Chapter 242 of the Public-Local Laws of 1939. Effective March 17, 1939, this Statute, "An Act to Establish a Pension Fund for the Retirement and Disability of Police Officers of the City of Asheville", established a fund known as "The Asheville Policemen's Pension and Disability Fund".

the Board of Examiners and ordered the cause remanded to the Board of Examiners for entry of an Order awarding Mrs. Duckett a pension based upon Lt. Duckett's death's being "while acting in the line of his duties".

The Board of Examiners appealed to the Supreme Court of North Carolina. The Supreme Court, in an opinion written by Justice (now Chief Justice) Branch for a unanimous Court, affirmed Judge Martin's Judgment. In its opinion, the Supreme Court said (at 271 N.C. 437):

> "Thus, we hold that a person is acting "while in the line of duty" when he acts at the time and place he is required to be at work and when he is engaged in the performance of his duties or is engaged in activities incidental to his duties. The term 'while in line of duty' is synonymous with 'while in the course of employment' or 'while in discharge of duty'.
>
> "The statute before us is clear, positive and understandable, and expresses a sensible meaning.
>
> "In order for appellant to prevail, we would have to read into the statute a requirement that there be a causal relation between his disability and his duties. This we cannot do."

(D) CHAPTER 188 OF THE 1977 SESSION LAWS

By Chapter 188 of the Session Laws of 1977 which was ratified and became effective on April 12, 1977, the General Assembly undertook to supersede Chapter 242 of the Public-Local Laws of 1939, as amended, and to substitute in thue place of those enactments a new Act to provide for the retirement and disability of policemen and firemen of the City of Asheville.

Section 9(a) of Chapter 188 deals with disability while acting in the line of duty and Section 9(b) deals with disability not in the line of duty.

(1) Disability in the line of duty is applicable where any member of the Asheville Police Department "shall become disabled while acting in the line of his police duties or as a result of the performance of duties as a member of the Asheville Police Department, and is unable to work as a policeman".

(a) This language broadened substantially entitlement to disability in line of duty.

2. Under this language, a policeman would be entitled to retirement for disability if he became disabled while acting in the line of his duties or if he became disabled, not while acting in the line of his duties, but as a result of the performance of duties as a member of the Asheville Police Department and was unable to work as a policeman.

3. By the terms of this language, a policeman who became disabled and unable to work as a policeman would be entitled to disability retirement if he became disabled while he was working as a policeman or, if he became disabled while not working as a policeman but by reason of something occurring while he was working as a policeman.

2. With reference to payment for disability in line of duty, the 1955 Act provided that such disability existed if a member of the Asheville Police Department "shall become disabled while acting in the line of his police duties and is unable to work".

(C) STATUTORY MEANING OF "IN LINE OF DUTY" DISABILITY -- MARCH 25, 1955 THROUGH APRIL 12, 1977

Section 7 of Chapter 242 of Public-Local Laws of 1939 and the Amendment thereto made by Chapter 322 of the 1955 Session Laws provided for disability payments to any member of the Asheville Police Department who "became disabled while acting in the line of his police duties and is unable to work".

This statutory arrangement remained unaltered until the enactment of Chapter 188 of the Session Laws of 1977 which was ratified and became effective on April 12, 1977. Since that statute has language identical to Chapter 322 of the 1955 Session Laws with respect to disability retirement, the interpretation provided by our Supreme Court as to the meaning of becoming disabled "while acting in the line of duty" is pertinent here.

The meaning of "while in the line of duty", as used in these statutes, is found in the Opinion of the Supreme Court of North Carolina in a case entitled "In Re The Claim of Mildred Lunsford Duckett, Widow of Lt. Arthur Walter Duckett for Payment of Pension by Board of Examiners of Asheville Firemen's Pension and Disability Fund", 371 N.C. 430 (1967).

The Duckett case involved the interpretation of Chapter 320 of the 1955 Session Laws. That statute provided for payment to members of the Asheville Fire Department for disability in line of duty.

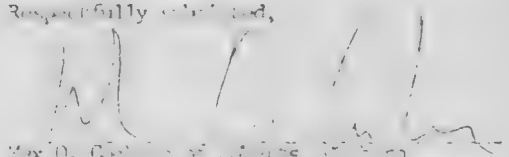
Briefly stated, the facts of the Duckett case are these:

> Lt. Arthur Walter Duckett was employed as a fireman by the City of Asheville on March 7, 1966. On that day, Lt. Duckett and two (2) other firemen went to a brush fire on Chapel Park Place. Lt. Duckett participated with the other firemen in beating out the fire and, when the fire was under control, Lt. Duckett walked up to and leaned on the engine, remarked that his chest was hurting, and told the firemen to hurry back to the station. When they reached the station, Lt. Duckett walked a distance of about 50 feet and was found lying near the bathroom door. He was dead when the ambulance arrived and the death certificate listed "coronary occulusion due to coronary thrombosis" as the cause of his death. Lt. Duckett's widow applied to the Board of Examiners for a pension based upon the premise that Lt. Duckett became disabled and died while acting in the line of his duties. The Board of Examiners ruled that Mrs. Duckett was not entitled to receive 70% of Lt. Duckett's monthly salary as she had requested. The Board found that Lt. Duckett's heart attack was not caused and did not result from exertion or exhaustion relating to the fire fighting or line of duty but that it resulted from some disease or condition or infirmity not caused by his work and duties as a fireman.

Upon Petition to the Superior Court, the matter was brought before Judge Harry C. Martin for consideration. Judge Martin reversed the order of

of his duties by imposing more stringent requirements precedent for his receipt of the pension than existed at the time of his employment and for 19 years thereafter would deprive him of his property without due process of law and would be in violation of the fundamental law of the United States and of the State of North Carolina.

Respectfully submitted,



Max O. Cogburn of Cogburn, Goosmann, McClure and Williams
Attorneys for Melvin C. Walsh, Jr.

(E) THE 1979 AMENDMENTS

In 1979 the General Assembly enacted Chapter 429 of the Session Laws which was ratified and became effective on April 20, 1979. This legislation undertook to delete Section 9 of Chapter 188 of the Session Laws of 1977 and to substitute a new Section 9 for it.

The new Section 9(b) provides that in the event any member of the Asheville Police Department becomes disabled while acting in the line of duty and is unable to work as a policeman, he shall receive monthly a sum equal to 70% of his basic monthly salary rate as then paid by the City of Asheville, provided that the disability is while acting in the line of duty "as defined in this Act".

Section 9(a) of Chapter 429 undertakes to create a special definition of the phrase "line of duty" which is contrary to the ordinary meaning of that phrase as spelled out by our Supreme Court in the Duckett case. Section 9(a) undertakes to require that before a policeman would be entitled to disability or death benefits "in line of duty" the disability or death must be the natural and proximate result of an accident occurring while he is in the actual performance of his duty as a member of the Asheville Police Department at some definite time and place.

This language undertakes to impose a more restrictive standard for compensation in the event of disability or death in the line of duty than had been applicable throughout the 19 years of Mr. Walsh's employment with the Police Department of the City of Asheville prior to the enactment of that statute.

(F) THE DISABILITY OF MELVIN C. WALSH, JR. IS THE NATURAL AND PROXIMATE RESULT OF AN ACCIDENT WHICH OCCURRED WHILE HE WAS IN ACTUAL PERFORMANCE OF HIS DUTIES AS A MEMBER OF THE ASHEVILLE POLICE DEPARTMENT

On October 6, 1983, Melvin C. Walsh, Jr. was on duty as a member of the Police Department of the City of Asheville when he suffered a heart attack (i.e. 'a cardiovascular accident'). The evidence clearly establishes that the stress under which he was operating led directly to this heart attack. Now that he has had the heart attack, Mr. Walsh is no longer able to deal with the stress which helped cause the heart attack and he is now mentally and physically totally incapacitated for further performance of duty as a policeman.

(G) CLAIMANT'S RIGHT TO A PENSION IS A PROPERTY RIGHT

Melvin C. Walsh, Jr. has been compelled, since his employment as a policeman on April 1, 1960, to contribute 5% of his earnings as a policeman to the Pension and Disability Fund. When the 1979 Act was passed, he had contributed 19 years of his life and 5% of his earnings during that period with the hope and the right to hope that he would receive pension, disability or otherwise, in accordance with the law as it existed as this service was being rendered and as these contributions were being made.

Application of the 1979 Statute to Mr. Walsh in such a way as to deprive him of the pension for disability occurring while acting in the line

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or other interested party
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242

NSION FUND FOR THE
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the City Accountant shall
on Fund the amount equal

to two (2%) per cent of the total salaries set out in the above paragraph.

(c) That the City of Asheville shall on the first day of July, one thousand nine hundred thirty-nine, and every twelve months thereafter, pay to the Policemen's Pension Fund an amount equal to two (2%) per cent of the total pay roll of the Police Department for the twelve months of the succeeding fiscal year, said amount to be compiled by the City Accountant of the City of Asheville in accordance with the budget pay roll of the City of Asheville for the succeeding twelve months as set out above.

Annual payment to fund by City of Asheville of amount equal to 2% of total pay roll of Police Dept

(d) That upon the ratification of this Act, and the deduction of the two (2%) per cent from the policemen's salaries as set out in Subsection (a), the City of Asheville shall on the first day of July, one thousand nine hundred thirty-nine, pay into the Pension Fund an amount equal to that amount which has been deducted from the salaries of the policemen since the ratification of this Act.

Payment by City of Asheville of amount equal to that deducted from salaries of police officers

SEC. 2. That the Mayor of the City of Asheville is hereby designated as custodian of the Policemen's Pension Fund as set out in Section one of this Act, and shall pay to the policemen on the first day of each month any monies in his possession that they may be entitled to as set out in the succeeding paragraphs of this Act

Custodian of Policemen's Pension Fund

Payment of benefits

SEC. 3. That any person who is now a member of the Asheville Police Department, as shown by the records of the City of Asheville, or who becomes a member of the Police Department on and after the date of the ratification of this Act, and who has a service of twenty years with said Police Department, and who has arrived at the age of sixty years shall have the right to retire from service from the Police Department of the City of Asheville and receive the benefits of retirement as set out in this Act.

Eligibility for retirement benefits

SEC. 4. That any person who becomes a member of the Police Department of the City of Asheville on and after the date of the ratification of this Act, and has served in said Police Department for twenty years, and has arrived at the age of sixty-six years shall retire from active service in the Police Department of the City of Asheville and receive the benefits of the Asheville Policemen's Pension Fund as set out in this Act: *Provided, however*, that this section does not affect any man who is now a member of the Police Department, as shown by the records of the City of Asheville.

Compulsory retirement

Present members of department excepted

SEC. 5. That any member of the Police Department who wishes to retire under the specifications set out in Section three of this Act, and who has become sixty years of age and has a total service of twenty years, shall receive an

Payment of benefit on basis of 1/3% of total salary received for last 20 years of service

just [illegible] which will not serve the interest of the county. No such reduction of penalties and interest shall be made under the terms of this section unless at the time of such reduction all such delinquent taxes shall be paid in cash, and when such taxes are paid, the tax collector shall issue to the taxpayer or other interested party a receipt which shall be in full settlement of all taxes due by such taxpayer for the year or years on which such taxes are applicable.

Time limitation.

SEC. 3. The provisions of this Act shall become void and inoperative at the expiration of one year from the date of its ratification.

Prior adjustments validated.

SEC. 4. All reductions or settlements with taxpayers in Alexander County heretofore made by the county accountant, with the approval of the Board of County Commissioners of said county are hereby in all respects approved and validated.

Conflicting laws repealed

SEC. 5. All laws and clauses of laws in conflict with this Act are hereby repealed

SEC. 6. This Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 17th of March, 1939.

H. B. 604 **CHAPTER 242**

AN ACT TO ESTABLISH A PENSION FUND FOR THE RETIREMENT AND DISABILITY OF POLICE OFFICERS OF THE CITY OF ASHEVILLE.

The General Assembly of North Carolina do enact:

Establishment of Asheville Policemen's Pension and Disability Fund.

SECTION 1. That there shall be established a pension fund for the Police Department of the City of Asheville, said fund to be known as the Asheville Policemen's Pension and Disability Fund, and said fund shall be made up and established as follows:

Deduction of 2% from monthly salaries of police officers.

(a) The City Accountant of the City of Asheville is hereby authorized and empowered to deduct on the first day of each calendar month, and beginning on the first day of the month after the ratification of this Act, two (2%) per cent of the monthly salary of each and every man on the city pay roll in the Police Department of the City of Asheville.

City Accountant to pay into fund an amount equal to 2% of total salaries.

(b) That, after deducting the two (2%) per cent set out in Subsection (a) of this section, the City Accountant shall pay over to the Policemen's Pension Fund the amount equal

(c) That the City of Asheville July, one thousand nine hundred twelve months thereafter, pay to Fund an amount equal to two (2 pay roll of the Police Departmen of the succeeding fiscal year, said by the City Accountant of the Cit ance with the budget pay roll of the succeeding twelve months as

(d) That upon the ratification duction of the two (2%) per ce salaries as set out in Subsection (shall on the first day of July, on thirty-nine, pay into the Pension to that amount which has been d of the policemen since the ratifica

SEC. 2. That the Mayor of the C designated as custodian of the F as set out in Section one of this policemen on the first day of e his possession that they may be c succeeding paragraphs of this A

SEC. 3. That any person who Asheville Police Department, as the City of Asheville, or who Police Department on and after of this Act, and who has a ser said Police Department, and wh of sixty years shall have the ri from the Police Department of receive the benefits of retiremen

SEC. 4. That any person who Police Department of the City the date of the ratification of t said Police Department for two at the age of sixty-six years sha in the Police Department of th ceive the benefits of the Ash Fund, as set out in this Act T section does not affect any ma the Police Department, as sh City of Asheville.

SEC. 5. That any member of wishes to retire under the spe three of this Act, and who ha and has a total service of two

ment to the time of his disability: *Provided, however*, that three years service on the Asheville Police Force is required before any member thereof can take advantage of this section: *Provided, further*, that if he should die from disability not received in line of duty, his widow shall receive one-half of the pension paid him at the time of his death so long as she remains unmarried.

Three year service requirement

Payments to widow in event of death from disability

SEC. 9. That the Mayor of the City of Asheville shall be the Chairman of a Board of Examiners to determine the officer's claims under this Act; that the City Health Officer shall be a member of said Board, and the Police Department of the City of Asheville shall elect for a period of three years a citizen of the City of Asheville to be the third member of said Board; that the election of the policemen's representative on this Board shall take place on the first day of July, one thousand nine hundred thirty-nine, and every three years thereafter; and that said Board shall have the power and authority to determine the claims of said policemen coming under the provisions of this Act, and their decision shall be final

Board of Examiners for determination of claims.

SEC. 10. That in no event shall any policeman coming under the provisions of this Act receive annually more than three and one-half (3½%) per cent of his total salary for a period of twenty years, as set out in Sections five, six and eight of this Act.

Payment in excess of 3½% of total salary for 20 years prohibited.

SEC. 11. That if and in the event the Policemen's Pension Fund ever decreases to an amount insufficient to take care of the policemen's pensions or disability claims, or their widows, then the City of Asheville shall pay out of its general fund an amount sufficient to take up the deficit herein mentioned

Payments from general fund of City of Asheville in event of deficiency in Policemen's Pension Fund.

SEC. 12. Any person who has been in the employ of the City of Asheville as a member of the Asheville Fire Department and has been transferred to employ in the Asheville Police Department shall receive credit, for the purpose of retirement as set out in this Act, for the number of years service that he had as a member of the Asheville Fire Department

Credit for service of employees of City Fire Dept. in event of transfer to Police Dept

SEC. 13. That the custodian of the Policemen's Pension Fund, namely the Mayor of the City of Asheville, shall be required to give a bond with an indemnity company authorized to do business in the State of North Carolina, as surety, in a sum equal to one and one-fourth (1¼) times the maximum amount calculated and expected to be in his possession as such custodian at any time within the fiscal year for which bond is given; the condition of said bond shall be that said custodian shall faithfully perform his duties, and shall faithfully keep, preserve, spend as

Bond required of Mayor as custodian of funds

Condition of bond.

nually from the Pension Fund, as set out in this Act, a sum equal to three and one-half (3½%) per cent of the total salary that he has received for the last twenty years of service with the department, said three and one-half (3½%) per cent shall be paid in monthly installments by the custodian of the Policemen's Pension Fund: *Provided, however*, that if the officer coming under the specifications of this section shall die, then his widow if he be married, so long as she remains unmarried, shall receive fifty (50%) per cent of what he should have received should he have lived.

Benefits payable in monthly installments.

Sec. 6. That any person coming under the specifications of Section four of this Act and having reached the age of sixty-six years, and acquired a service record of twenty years, shall receive the same pension as set out in Section five of this Act.

Benefit payments for disability during active service.

Sec. 7. That if and in the event any member of the Asheville Police Department qualifying under this Act shall become disabled while acting in the line of his police duties and is unable to work, he shall receive each month during such disability an amount equal to his full monthly salary as paid by the City of Asheville: *Provided, however*, that if under the North Carolina Workmen's Compensation Act he shall receive any payments due to such disability, then the amount of such compensation payments shall be deducted from the amount of his monthly salary, and there shall be paid from the Policemen's Pension Fund only such amount as may be required to make up his full monthly salary: *Provided, further*, that if such member of the Asheville Police Department shall die as a result of his disability as defined in this section, his widow, if he be married, shall receive so long as she remains unmarried the same monthly payment as he would have received under this section: *Provided, further*, that if, under the Workmen's Compensation Act, such widow elects to take a lump sum settlement of the amount due on account of the death of her husband, then such widow so long as she remains unmarried shall receive from the Policemen's Pension Fund each month a sum equal to the difference between the monthly payment she would have received under the Workmen's Compensation Act and the amount of her deceased husband's monthly salary, and such payments from the Policemen's Pension Fund shall continue so long as she remains unmarried.

Procedure for disability payments in event of award under N. C. Workmen's Compensation Act.

Monthly payments to widow in event of death as result of disability.

Lump sum settlement under Workmen's Compensation Act.

Benefit payments for disability during inactive service.

Sec. 8. That if any member of the Asheville Police Department, as set out in this Act, becomes disabled not in line of duty, he shall receive annually a sum equal to three and one-half (3½%) per cent of his total earnings from the beginning of his service on the Asheville Police Depart-

H. B. 462 CHAPTER 311

AN ACT AMENDING CHAPTER TWO FORTY-TWO OF THE PUBLIC-LOCAL AND PRIVATE LAWS OF ONE THOUSAND NINE HUNDRED THIRTY-NINE, BEING AN ACT TO ESTABLISH A PENSION FUND FOR THE RETIREMENT AND DISABILITY OF POLICE OFFICERS OF THE CITY OF ASHEVILLE.

The General Assembly of North Carolina do enact:

SECTION 1. That Chapter two forty-two of the Public-Local and Private Laws of one thousand nine hundred thirty-nine be amended by inserting two new sections known as Section one A and Section one B as follows:

Relating to Pension Fund and Police Department in Asheville.

SEC. 1 A. That for the purposes of this Act members of the Asheville Police Department shall mean those men in the employ of the City of Asheville and assigned to the Police Department of the City of Asheville under the classified service of said city, it being the purpose herein that only those employees who have been certified by the Civil Service Board of the City of Asheville shall receive benefits under this Act and no temporary or otherwise appointments.

Investing said Fund.

SEC. 1. B. That the pension board, as set out in Chapter two forty-two of the Public-Local and Private Laws of one thousand nine hundred thirty-nine, is hereby authorized and empowered to invest any surplus fund accumulated in what is known as the policemen's pension fund in United States Government bonds, State of North Carolina bonds, or certificates of deposit in banks operating within the State of North Carolina, and covered under the Federal Insurance Act.

SEC. 2. That this Act shall be in full force and effect from and after its ratification.

Ratified this the 1st day of March, 1945.

H. B. 467 CHAPTER 312

AN ACT TO AMEND SECTION TWO - TWENTY-EIGHT OF THE GENERAL STATUTES OF NORTH CAROLINA RELATING TO THE FEES FOR REGISTERED FEDERAL COURT LIENS AND FEDERAL CHATTEL MORTGAGES IN CAMDEN COUNTY.

The General Assembly of North Carolina do enact:

Relating to fees for registering Federal Court liens and Federal chattel mortgages in Camden County.

SECTION 1. That Section two - twenty-eight of the General Statutes of North Carolina is hereby amended by inserting the word "Camden" before the word "Caswell" and after the word "Brunswick" in line nineteen. It is the intent and purpose of

this Act to exempt Camde[illegible]oun[illegible] tion two - twenty-eight of [illegible] Ge[illegible]

SEC. 2. That all laws a[illegible]aun[illegible] Act are hereby repealed.

SEC. 3. That this Act shall be [illegible] and after its ratification.

Ratified this the 1st day of Ma[illegible]

H. B. 485 CHAPTE[illegible]

AN ACT TO FIX THE SALA[illegible] THE BOARD OF COUNTY [illegible] DEN COUNTY.

The General Assembly of North [illegible]

SECTION 1. That as compensa[illegible] Board of County Commissioners[illegible] hers thereof shall receive the sum[illegible] ($7.50) per diem for each day [illegible] official duties, and in addition the[illegible] travel allowance at the rate of [illegible] traveling on official business of [illegible] homes to the place of meeting of [illegible] tance to be computed by the usua[illegible]

SEC. 2. That this Act shall a[illegible]

SEC. 3. That all laws [illegible] cla[illegible] Act are hereby repealed.

SEC. 4. That this Ac[illegible]all [illegible] and after its ratification.

Ratified this the 1st day of [illegible]

H. B. 486 CHAPT[illegible]

AN ACT TO FIX THE COMP[illegible] MAN OF THE BOARD O[illegible] COUNTY.

The General Assembly of North[illegible]

SECTION 1. That the Chairm[illegible] of Camden County shall be paid [illegible] otherwise received by him by r[illegible] board, an annual salary of one [illegible] annually, beginning as of Ma[illegible] dred and forty-five.

herein provided, and account for, all funds and property coming into his hands as such a custodian; and the premium on such bond shall be paid out of the Policemen's Pension Fund.

Premium paid from Policemen's Pension Fund.

Conflicting laws repealed.

SEC. 14. That all laws and clauses of laws in conflict herewith are hereby repealed.

SEC. 15. That this Act shall take effect on and after its ratification.

In the General Assembly read three times and ratified, this the 17th day of March, 1939.

H. B. 605 CHAPTER 243

AN ACT TO ESTABLISH A PENSION FUND FOR THE RETIREMENT AND DISABILITY OF MEMBERS OF THE FIRE DEPARTMENT OF THE CITY OF ASHEVILLE.

The General Assembly of North Carolina do enact:

Establishment of Firemen's Pension Fund for City of Asheville

SECTION 1. That there shall be established a pension fund for the Fire Department of the City of Asheville, said fund to be known as the Asheville Firemen's Pension and Disability Fund, and said fund shall be made up and established as follows:

Deduction of 2% from monthly salaries of Firemen

(a) The City Accountant of the City of Asheville is hereby authorized and empowered to deduct on the first day of each calendar month, and beginning on the first day of the month after the ratification of this Act, two (2%) per cent of the monthly salary of each and every man on the city pay roll in the Fire Department of the City of Asheville.

City Accountant to pay into Fund an amount equal to 2% of total salaries.

(b) That, after deducting the two (2%) per cent set out in Subsection (a) of this section, the City Accountant shall pay over to the Firemen's Pension Fund the amount equal to two (2%) per cent of the total salaries set out in the above paragraph.

Annual payment to fund by City of Asheville of amount equal to 2% of total pay roll of Fire Department.

(c) That the City of Asheville shall on the first day of July, one thousand nine hundred thirty-nine, and every twelve months thereafter, pay to the Firemen's Pension Fund an amount equal to two (2%) per cent of the total pay roll of the Fire Department for the twelve months of the succeeding fiscal year, said amount to be compiled by the City Accountant of the City of Asheville in accordance with the budget pay roll of the City of Asheville for the succeeding twelve months as set out above.

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sion Fund; provided, however, that if under the North Carolina Workmen's Compensation Act he shall receive any payments due to such disability, then the amount of such compensation payment shall be deducted from the amount of his said monthly installment, and there shall be paid from the Policemen's Pension Fund only such amount as may be required to make up his said monthly installment: Provided, further, that if such member of the Asheville Police Department shall be killed in the line of his police duties, or shall die as a result of a disability as defined in this Section, his widow, if he be married, shall receive, so long as she remains unmarried, the same monthly installments as he would have received under this Section: Provided, further, that if, under the Workmen's Compensation Act, such widow elects to take a lump sum settlement of the amount due on account of the death of her husband, then such widow, so long as she remains unmarried, shall receive from the Policemen's Pension Fund each month a sum equal to the difference between the monthly installment she would have received under the Workmen's Compensation Act and the amount of her deceased husband's monthly installment, and such payments from the Policemen's Pension Fund shall continue so long as she remains unmarried."

Sec. 3. That Section 9 of Chapter 242 of the Public-Local Laws of 1929 be amended by striking out all of said Section 9 and inserting in lieu thereof the following:

"Sec. 9. That the Mayor of the City of Asheville shall be the chairman of a Board of Examiners to determine the claims of policemen under Chapter 242 of the Public-Local and Private Laws of 1929, as amended, that the City Manager of the City of Asheville shall be a member of said board; that the Council of the City of Asheville shall elect for a term of three years and every three years thereafter a citizen of the City of Asheville who is a medical doctor to be the third member of said board, that the Police Department of the City of Asheville shall elect for a term of three years and every three years thereafter a person who is a member of said Police Department to be the fourth member of said board, that the Fire Department of the City of Asheville shall elect for a term of three years and every three years thereafter a person who is a member of said Fire Department to be the fifth member of said board, said third, fourth and fifth members shall serve until their successors are duly elected and qualified; and that said board shall have the power and authority to determine the claims of said policemen coming under the provisions of said Chapter 242 of the Public Local and Private Laws of 1929, as amended, and their decision shall be final."

Sec. 4. That Chapter 242 of the Public-Local Laws of 1929 be and the same is hereby amended by adding a new Section to said Act as follows:

"Sec. 14. That from and after July 1, 1955 there shall be paid to the Asheville Policemen's Pension and Disability Fund the sum of one dollar ($1.00) out of and from the costs in each and every case tried and disposed of in and by the Police Court of the City of Asheville, if and when said costs are collected; said payment to be made on the first of each and every month: Provided, however, if said costs by the judgment of the court

Ingham County, is authorized, by resolution adopted, to regulate the location of places where beer and wine may be sold in said town.

Sec. 2. All laws and clauses of laws in conflict with this Act are hereby repealed.

Sec. 3. This Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 25th day of March, 1955.

S. B. 276 CHAPTER 322

AN ACT AMENDING CHAPTER 242, PUBLIC-LOCAL LAWS OF 1939, THE SAME BEING AN ACT TO ESTABLISH A PENSION FUND FOR THE RETIREMENT AND DISABILITY OF MEMBERS OF THE POLICE DEPARTMENT OF THE CITY OF ASHEVILLE.

The General Assembly of North Carolina do enact:

Section 1. That Section 1 of Chapter 242 of the Public-Local Laws of 1939 be and the same is hereby amended by striking out all of subsections (a), (b) and (d) thereof, and inserting in lieu thereof the following:

"(a) The City Accountant of the City of Asheville is hereby authorized and empowered to deduct for each calendar month, beginning on July 1, 1955, five (5%) per cent of the monthly salary of every man on the city payroll of the Police Department of the City of Asheville.

"(b) That after deducting the five (5%) per cent set out in subsection (a) of this Section the city accountant shall pay over to the Policemen's Pension Fund the amount equal to five (5%) per cent of the total salaries set out in the above paragraph.

"(d) That on or after July 1, 1955 any member of the Police Department who ceases to be a member thereof for any reason whatsoever may, upon written application to the Board of Examiners, be entitled to be refunded in full for all funds deducted from his monthly salary and paid into the Asheville Policemen's Pension and Disability Fund since July 1, 1955; provided that upon acceptance of said refund he thereby automatically waives any and all pension rights and is thereafter barred from any benefits or payments or any other rights under Chapter 242 of the Public-Local and Private Laws of 1939, as amended."

Sec. 2. That Section 7 of Chapter 242 of the Public-Local Laws of 1939 be amended by striking out all of said Section 7 and inserting in lieu thereof the following:

"Sec. 7. Payment for Disability in Line of Duty.—That if and in the event any member of the Asheville Police Department qualifying under this Act shall become disabled while acting in the line of his police duties, and is unable to work, he shall receive monthly a sum equal to seventy (70%) per cent of his monthly salary as then paid by the City of Asheville, said seventy (70%) per cent of said monthly salary shall be paid in monthly installments by the custodian of the Policemen's Pen-

such programs. In the event funds appropriated for the purposes of this section are turned over to any agency or organization other than the city for expenditure, no such expenditure shall be made until the city has approved it, and all such expenditures shall be accounted for by the agency or organization at the end of the fiscal year for which they were appropriated. For purposes of this section, the words 'senior citizens' shall mean citizens of a city who are at least 60 years of age."

Sec. 2. G.S. 160A-209(c) is amended by inserting therein a new subdivision (28) to read: "(28) Senior citizens programs. To undertake programs for the assistance and care of its senior citizens" and by renumbering subsequent subdivisions accordingly.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of April, 1977.

H. B. 758 CHAPTER 188

AN ACT TO SUPERSEDE CHAPTERS 242 AND 243 OF THE 1939 SESSION LAWS, AMENDED BY CHAPTERS 310 AND 311 OF THE 1945 SESSION LAWS AND CHAPTERS 320 AND 322 OF THE 1955 SESSION LAWS, RELATING TO THE POLICEMEN AND FIREMEN PENSION FUND OF THE CITY OF ASHEVILLE AND SUBSTITUTING IN LIEU THEREOF A NEW ACT TO PROVIDE FOR THE RETIREMENT AND DISABILITY OF POLICEMEN AND FIREMEN OF THE CITY OF ASHEVILLE.

The General Assembly of North Carolina enacts:

Section 1. Chapters 242 and 243 of the 1939 Session Laws, Chapters 310 and 311 of the 1945 Session Laws and Chapters 320 and 322 of the 1955 Session Laws are hereby superseded by this act.

Sec. 2. Definition, policemen's fund. For the purposes of this act, members of the Asheville Police Department shall mean those persons in the full-time employ of the City of Asheville and assigned to the Police Department of the City of Asheville, excluding participants in the Asheville General Employees Retirement Plan, it being the purpose herein that only those persons who are full-time employees of the Police Department of the City of Asheville shall receive benefits under this act and no temporary or otherwise appointments.

Sec. 3. Establishment and composition of policemen's fund; refund of salary deductions. A pension fund is hereby established and placed under the management of a board of trustees for the purposes of providing retirement allowances and other benefits under the provisions of this act for members of the Police Department of the City of Asheville to be known as the "Asheville Policemen's Pension and Disability Fund" (herein called, "policemen's fund"), and said fund shall be made up and established as follows:

(a) The Director of Finance of the City of Asheville is hereby authorized, directed, and empowered to deduct for each calendar month beginning on July 1, 1955, five percent (5%) of the monthly salary of every member of the policemen's fund as defined in this act.

(b) That after deducting the five percent (5%) set out in subsection (a) of this section, the director of finance shall pay over to the policemen's fund the

are reduced as much as one-half, then there shall be paid to the Asheville Policemen's Pension and Disability Fund, if and when same are collected, the sum of fifty cents (50c) in each and every case."

Sec. 5. Any and all Public, Public-Local or Private Laws heretofore enacted by the General Assembly relating to costs in the Police Court of the City of Asheville, are hereby amended so as to give full force and effect to the provisions of Section 4 of this Act.

Sec. 6. That all laws and clauses of laws in conflict with the provisions of this Act are hereby repealed.

Sec. 7. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 25th day of March, 1955.

S. B. 286 CHAPTER 323

AN ACT TO AMEND THE PLAN D FORM OF GOVERNMENT AS APPLICABLE TO WASHINGTON, NORTH CAROLINA.

The General Assembly of North Carolina do enact:

Section 1. The provisions of G. S. 160-347, authorizing the mayor and council to elect from their membership a treasurer shall not be applicable to the City of Washington, North Carolina, which has adopted the Plan D form of government, and the said treasurer shall be elected by the mayor and council as provided by said Section but the said treasurer shall not be a member of the said council.

Sec. 2. The City Council of the City of Washington, North Carolina, shall elect the city clerk and the city attorney, and shall fix their compensation, and the provisions of G. S. 160-350 with respect to the city clerk and city attorney shall not be applicable to the City of Washington, North Carolina.

Sec. 3. This Act shall be applicable to the election of the city treasurer, city clerk and city attorney for the next fiscal year of the City of Washington, North Carolina, and for the succeeding years thereafter.

Sec. 4. All laws and clauses of laws in conflict with this Act are hereby repealed.

Sec. 5. This Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 25th day of March, 1955.

H. B. 117 CHAPTER 324

AN ACT AMENDING G. S. 162-6 FIXING THE FEES TO BE CHARGED BY THE SHERIFF AND OTHER LAW ENFORCEMENT OFFICERS OF WAKE COUNTY.

The General Assembly of North Carolina do enact:

Section 1. G. S. 162-6, as amended, is hereby further amended by adding the following paragraph at the end thereof:

for the preceding year, the amount of the accumulated cash and securities of the fund, and the last balance sheet showing the financial condition of the fund by means of an independent audit of the fund using generally accepted accounting principles.

Sec. 5. Normal retirement. Any person who is now a member of the Asheville Police Department, as shown by the records of the City of Asheville, and who becomes a member of the police department on and after March 17, 1939, subject to the provisions of Section 14 of this act, and who has a service of 20 years with said police department, and who has arrived at an age of 60 years, shall have the right to retire from service from the Police Department of the City of Asheville and receive benefits of retirement as set out in this act.

Sec. 6. Mandatory retirement. Any person who becomes a member of the Police Department of the City of Asheville on and after March 17, 1939, subject to the provisions of Section 14 of this act, and has served in said department for 20 years, and has arrived at the age of 60 years, shall retire from the active service of the Police Department of the City of Asheville and shall receive the benefits of the policemen's fund, as set out in this act.

Sec. 7. Credit for service with fire department. Any person who has been in the employ of the City of Asheville as a member of the Asheville Fire Department and has been transferred to the employ of the Asheville Police Department shall receive credit, for the purpose of retirement as set out in this act, for the number of years' service that he has had as a member of the Asheville Fire Department.

Sec. 8. Retirement benefits. (a) Any member of the Asheville Police Department who wishes to retire under the specifications set out in Section 5 of this act, and who has become 60 years of age, and has a total service of 20 years shall receive annually from the policemen's fund, as set out in this act, a sum equal to three and one-half percent (3 1/2%) of the total salary that he has received for the last 20 years of service with the department, said three and one-half percent (3 1/2%) shall be paid in monthly installments by the board of trustees of the policemen's fund; provided, however, that if the officer coming under the specifications of this section shall die, then the surviving spouse, so long as said surviving spouse remains unmarried, shall receive fifty percent (50%) of what the member would have received should he have lived.

(b) Any person coming under the specifications of Section 6 of this act and having reached the age of 66 years, and having acquired a service record for 20 years, shall receive the same pension as set out in subsection (a) of this section.

Sec. 9. Disability and death benefits. (a) If and in the event any member of the Asheville Police Department qualifying under this act shall become disabled while acting in the line of his police duties or as a result of the performance of duties as a member of the Asheville Police Department, and is unable to work as a policeman, he shall receive monthly a sum equal to seventy percent (70%) of his monthly salary as then paid by the City of Asheville, said seventy percent (70%) of said monthly salary shall be paid in monthly installments by the board of trustees of the policemen's fund; provided, however, that if under the North Carolina Workmen's Compensation Act he shall receive any payments due to such disability, then the amount of such compensation payment shall be deducted from the amount of his said monthly installment, and there shall be paid from the policemen's fund only such amount as may be required to make up his said monthly installment; provided,

amount equal to five percent (5%) of the total salaries set out in the above paragraph.

(c) That the City of Asheville shall, effective with the ratification of this act, pay into the policemen's fund for the remainder of its fiscal year ending June 30, 1977, and for each full fiscal year beginning on or after July 1, 1977, such additional sums of money over and above the foregoing policemen's employee contributions as may be required to meet the standards of actuarial soundness as certified by a qualified actuary as defined in North Carolina General Statutes 106A-163(d). In no event shall the city's annual contribution be less than the total annual amount contributed by the members of the policemen's fund, as defined in this act. No amendment shall cause or permit any part of the fund's assets to be used for or diverted to purposes other than for the exclusive benefit of the participants and retired participants, or their beneficiaries.

(d) That on or after July 1, 1955, any member of the police department who ceases to be a member thereof for any reason whatsoever may, upon written application to the board of examiners, be entitled to be refunded in full for all funds deducted from his monthly salary and paid into the policemen's fund since July 1, 1955; provided that upon acceptance of said refund he thereby automatically waives any and all pension rights and is thereafter barred from any benefits or payments or any other rights under this act.

Sec. 4. Administration and responsibility for operation of policemen's fund. (a) Board of trustees. The administration and responsibility for the proper operation of the fund and for making effective the provisions of this act are hereby vested in the board of trustees.

(b) Powers and authority of the board of trustees. The board of trustees shall transact all business, invest all funds, and hold cash and securities in the name of the "Asheville Policemen's Pension and Disability Fund".

(c) Members of board. The board shall consist of: (1) a member of the Asheville City Council elected by the city council, who shall serve at the pleasure of the council; (2) an employee of the Fire Department of the City of Asheville under the classified service of said city, other than the fire chief, elected by employees of the fire department for a term of three years beginning with the effective date of this act and every three years thereafter; (3) an employee of the Police Department of the City of Asheville under the classified service of said city, other than the police chief, elected by employees of the police department for a term of three years beginning with the effective date of this act and every three years thereafter. Vacancies occurring during the terms of office of the police and fire trustees shall be filled from the same category as the vacancy.

(d) Operation of fund. The board of trustees shall engage and pay for such actuarial, auditing, investment counseling, legal and other services as shall be required to transact the business of the fund, and in addition, may engage the services of the finance director and the personnel director of the City of Asheville, who shall serve without compensation. The board of trustees shall pay from the policemen's fund benefits as provided for under the terms of this act to such policemen or such beneficiaries as may be entitled under the terms of this act, such benefits to be payable on the first day of each month.

(e) Audit. The board of trustees shall keep a record of all its proceedings and shall publish annually a report showing the fiscal transactions of the fund

who shall not be the fire chief, to be the fifth member of said board; said third, fourth and fifth members shall serve until their successors are duly elected and qualified and said board shall have the power and authority to determine the claims of said policemen claimants coming under the provisions of this act and their decision shall be reported to the board of trustees for their approval.

(b) The board of trustees shall review the findings of the board of examiners and may approve or reverse the findings of the board of examiners.

(c) Any policeman claimant, his beneficiary or representative whose claim has been denied in whole or in part after review by the board of trustees shall have the right to appeal to the Asheville City Council. Such appeal must be filed by the policeman claimant, his beneficiary or representative making with the city clerk within 10 days after receipt of written denial of all or part of the claim by the board of trustees. Such appeal will be heard at a regular weekly city council meeting within six weeks of the filing of the appeal by said policeman claimant, his beneficiary or representative. The decision of the city council shall be final.

(d) The policeman claimant, his beneficiary or representative has the right to file an appeal within 30 days of the city council action outlined in subsection (c) of this section to a court of competent jurisdiction where the issues shall be heard and determined *de novo* with or without a jury.

Sec. 13. Investment of surplus funds. The board of trustees is hereby authorized and empowered to invest any surplus funds accumulated in what is known as the policemen's fund in obligations of the United States Government or obligations fully guaranteed both as to principal and interest by the United States Government or an agency of the United States Government; obligations of the State of North Carolina and certificates of deposit in any banks and shares of any savings and loan associations or building and loan associations operating in the State of North Carolina or credit unions to the extent insured by the government or an agency of the United States.

Sec. 14. Freezing membership in policemen's fund. From and after the effective date of any ordinance of the Asheville City Council establishing an employee retirement and disability plan covering employees of the City of Asheville assigned to the Asheville Police Department under the classified service of said city, future employees so assigned to the police department shall participate in and contribute to such employee retirement and disability plan pursuant to the terms and conditions thereof, and shall not participate in or contribute to the pension plan established by this act; provided, however, that any such employees' retirement and disability plan hereafter established by ordinance of the Asheville City Council shall meet standards of actuarial soundness as required by North Carolina General Statutes 160A-163 and that the city shall contribute such sums of money to said plan as may be required to meet the standards of actuarial soundness as certified by a qualified actuary as defined in North Carolina General Statutes 160A-163(d).

Sec. 15. Definition, firemen's fund. For the purposes of this act, members of the Asheville Fire Department shall mean those persons in the full time employ of the City of Asheville and assigned to the Fire Department of the City of Asheville, it being the purpose herein that only those persons who are full-time employees of the Fire Department of the City of Asheville, excluding participants in the Asheville General Employees Retirement Plan,

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further, that if such member of the Asheville Police Department shall be killed in the line of his police duties, or shall die as a result of a disability as defined in this section, the surviving spouse shall receive, so long as said surviving spouse remains unmarried, the same monthly installment as the member would have received under this section; provided, further, that if, under the North Carolina Workmen's Compensation Act such surviving spouse elects to take a lump sum settlement of the amount due on account of the death of the member, then such surviving spouse, so long as said surviving spouse remains unmarried, shall receive from the policemen's fund each month a sum equal to the difference between the monthly installment that would have been received under the Workmen's Compensation Act and the amount of the deceased member's monthly installment, and such payments from the policemen's fund shall continue so long as said surviving spouse remains unmarried.

(b) If any member of the Asheville Police Department, as set out in this act, becomes disabled not in the line of duty, he shall receive annually a sum equal to three and one-half percent (3 1/2%) of his total earnings from the beginning of his service on the Asheville Police Department to the time of his disability; provided, however, that three years' service with the Asheville Police Department is required before any member thereof can take advantage of this section; provided, further, that if such member should die from disability not received in the line of duty, the surviving spouse shall receive one-half of the pension paid to the member at the time of death so long as said surviving spouse remains unmarried.

(c) If any member of the Asheville Police Department, as set out in this act, shall die leaving no surviving spouse entitled to benefits in accordance with Section 8 or 9 of this act, the funds deducted from such policeman's monthly salary and paid to the policemen's fund shall be paid as follows:

(1) to the child or children of such policeman in equal shares;

(2) if there is no surviving child or children, to the designated beneficiary of the policeman, if any;

(3) if there is no surviving child or children or designated beneficiary, to the executors or administrators of the policeman's estate.

Sec. 10. Reserved.

Sec. 11. Maximum benefits. In no event shall any policeman coming under the provisions of this act receive annually more than three and one-half per cent (3 1/2%) of his total salary for a period of 20 years, as set out in Sections 8 and 9(b) of this act.

Sec. 12. Board of examiners; appeals. (a) The mayor of the City of Asheville shall be the chairman of a board of examiners to determine the claims of policemen claimants under this act; the city manager of the City of Asheville shall be a member of said board; the council of the City of Asheville shall elect for a term of three years beginning on the date of ratification of this act and every three years thereafter a citizen of the City of Asheville who is a medical doctor to be the third member of said board; the Police Department of the City of Asheville shall elect for a term of three years beginning on the date of ratification of this act and every three years thereafter a person who is a member of said police department, who shall not be the police chief, to be the fourth member of said board; the Fire Department of the City of Asheville shall elect for a term of three years beginning on the date of ratification of this act and every three years thereafter a person who is a member of said department,

classified service of said city, other than the fire chief, elected by employees of the fire department for a term of three years beginning with the effective date of this act and every three years thereafter. Vacancies occurring during the terms of office of the police and fire trustees shall be filled from the same category as the vacancy.

(d) Operation of fund. The board of trustees shall engage and pay for such actuarial, auditing, investment counseling, legal and other services as shall be required to transact the business of the fund. In addition, may engage the services of the finance director and the [illegible] director of the City of Asheville, who shall serve without compensation. The board of trustees shall pay from the firemen's fund [illegible] as provided for under the terms of this act to such firemen or such beneficiaries as may be entitled under the terms of this act, such benefits to be payable on the first day of each month.

(e) Audit. The board of trustees shall keep a record of all its proceedings and shall publish annually a report showing the fiscal transactions of the fund for the preceding year, the amount of the accumulated cash and securities of the fund, and the last balance sheet showing the financial condition of the fund by means of an independent audit of the fund using generally accepted accounting principles.

Sec. 18. Normal retirement. Any person who is now a member of the Asheville Fire Department, as shown by the records of the City of Asheville, and who becomes a member of the fire department on and after March 17, 1969, subject to the provisions of Section 27 of this act, and who has a service of 20 years with said fire department, and who has arrived at an age of 60 years, shall have the right to retire from service from the Fire Department of the City of Asheville and receive benefits of retirement as set out in this act.

Sec. 19. Mandatory retirement. Any person who becomes a member of the Fire Department of the City of Asheville on and after March 17, 1969, subject to the provisions of Section 27 of this act, and has served in said department for 20 years, and has arrived at the age of 66 years shall retire from the active service of the Fire Department of the City of Asheville and shall receive the benefits of the firemen's fund, as set out in this act.

Sec. 20. Credit for service with police department. Any person who has been in the employ of the City of Asheville as a member of the Asheville Police Department and has been transferred to the employ in the Asheville Fire Department shall receive credit, for the purpose of retirement as set out in this act, for the number of years' service that he has had as a member of the Asheville Police Department.

Sec. 21. Retirement benefits. (a) Any member of the Asheville Fire Department who wishes to retire under the specifications set out in Section 18 of this act, and who has become 60 years of age, and has a total service of 20 years, shall receive annually from the firemen's fund, as set out in this act, a sum equal to three and one-half percent (3 1/2%) of the total salary that he has received for the last 20 years of service with the department, said three and one-half percent (3 1/2%) shall be paid in monthly installments by the board of trustees of the firemen's fund, provided, however, that if the officer coming under the specifications of this section shall die, then the surviving spouse, so long as said surviving spouse remains unmarried, shall receive fifty percent (50%) of what the member would have received should he have lived.

shall receive benefits under this act and no temporary or otherwise appointments shall receive benefits under this act.

Sec. 16. Establishment and composition of firemen's fund; refund of salary deductions. A pension fund is hereby established and placed under the management of a board of trustees for the purposes of providing retirement allowances and other benefits under the provisions of this act for members of the Fire Department of the City of Asheville to be known as the "Asheville Firemen's Pension and Disability Fund" (herein called, "Firemen's Fund"), and said fund shall be made up and established as follows:

(a) The Director of Finance of the City of Asheville is hereby authorized, directed, and empowered to deduct for each calendar month beginning on July 1, 1955, five percent (5%) of the monthly salary of every member of the firemen's fund as defined in this act.

(b) That after deducting the five percent (5%) set out in subsection (a) of this section, the director of finance shall pay over to the firemen's fund the amount equal to five percent (5%) of the total salaries set out in the above paragraph.

(c) That the City of Asheville shall, effective with the ratification of this act, pay into the firemen's fund for the remainder of its fiscal year ending June 30, 1977, and for each full fiscal year beginning on or after July 1, 1977, such additional sums of money over and above the foregoing firemen's employee contributions as may be required to meet the standards of actuarial soundness as certified by a qualified actuary as defined in North Carolina General Statutes 160A-163(d). In no event shall the city's annual contribution be less than the total annual amount contributed by the members of the firemen's fund, as defined in this act. No amendment shall cause or permit any part of the fund's assets to be used for or diverted to purposes other than for the exclusive benefit of the participants and retired participants, or their beneficiaries.

(d) That on or after July 1, 1955, any member of the fire department who ceases to be a member thereof for any reason whatsoever may, upon written application to the board of examiners, be entitled to be refunded in full for all funds deducted from his monthly salary and paid into the firemen's fund since July 1, 1955; provided that upon acceptance of said refund he thereby automatically waives any and all pension rights and is thereafter barred from any benefits or payments or any other rights under this act.

Sec. 17. Administration and responsibility for operation of firemen's fund.

(a) Board of trustees. The administration and responsibility for the proper operation of the fund and for making effective the provisions of this act are hereby vested in the board of trustees.

(b) Powers and authority of the board of trustees. The board of trustees shall transact all business, invest all funds, and hold cash and securities in the name of the "Asheville Firemen's Pension and Disability Fund".

(c) Members of board. The board shall consist of: (1) a member of the Asheville City Council elected by the city council, who shall serve at the pleasure of the council; (2) an employee of the Police Department of the City of Asheville under the classified service of said city, other than the police chief, elected by employees of the police department for a term of three years beginning with the effective date of this act and every three years thereafter; (3) an employee of the Fire Department of the City of Asheville under the

Sec. 24. Maximum benefits. In no event shall any fireman coming under the provisions of this act, receive annually more than [illegible] and one half percent (3 1/2%) of his total salary for a period of 20 years as set out in sections 21 and 22(b) of this act.

Sec. 25. Board of examiners, appeals. (a) The mayor of the City of Asheville shall be the chairman of a board of examiners to determine the claims of firemen claimants under this act; the city manager of the City of Asheville shall be a member of said board; the council of the City of Asheville shall elect for a term of three years beginning on the date of ratification of this act and every three years thereafter a person of the City of Asheville who is a [illegible] department who shall not be the fire chief, to be the third member of said board; the Police Department of the City of Asheville shall elect for a term of three years beginning on the date of ratification of this act and every three years thereafter a person who is a member of said police department who shall not be the police chief, to be the fourth member of said board; the Fire Department of the City of Asheville shall elect for a term of three years beginning on the date of ratification of this act and every three years thereafter a person who is a member of said department, who shall not be the fire chief, to be the fifth member of said board, said third, fourth and fifth members shall serve until their successors are duly elected and qualified and said board shall have the power and authority to determine the claims of said firemen claimants coming under the provisions of this act and their decision shall be reported to the board of trustees for their approval.

(b) The board of trustees shall review the findings of the board of examiners and may approve or reverse the findings of the board of examiners.

(c) Any fireman claimant, his beneficiary or representative whose claim has been denied in whole or in part after review by the board of trustees shall have the right to appeal to the Asheville City Council. Such appeal must be filed by the fireman claimant, his beneficiary or representative in writing with the city clerk within 10 days after receipt of written denial of all or part of the claim by the board of trustees. Such appeal will be heard at a regular weekly city council meeting within six weeks of the filing of the appeal by said fireman claimant, his beneficiary or representative. The decision of the city council shall be final.

(d) The fireman claimant, his beneficiary or representative has the right to file an appeal within 30 days of the city council action outlined in subsection (c) of this section to a court of competent jurisdiction where the issues shall be heard and determined *de novo* with or without a jury.

Sec. 26. Investment of surplus funds. The board of trustees is hereby authorized and empowered to invest any surplus funds accumulated in what is known as the firemen's fund in obligations of the United States Government or obligations fully guaranteed both as to principal and interest by the United States Government or an agency of the United States Government, obligations of the State of North Carolina and certificates of deposit [illegible] banks and shares of any savings and loan associations or building and loan associations operating in the State of North Carolina or credit unions to the extent insured by the government or an agency of the United States.

Sec. 27. Freezing membership in firemen's fund. From and after the effective date of any ordinance of the Asheville City Council establishing an employee retirement and disability plan covering employees of the City of Asheville assigned to the Asheville Fire Department under the classified

(b) Any person coming under the specifications of Section 19 of this act and having reached the age of 66 years, and acquired a service record for 20 years shall receive the same pension as set out in subsection (a) of this section.

Sec. 22. Disability and death benefits. (a) If and in the event any member of the Asheville Fire Department qualifying under this act shall become disabled while acting in the line of his duties or as a result of the performance of duties as a member of the Asheville Fire Department, and is unable to work as a fireman, he shall receive monthly a sum equal to seventy percent (70%) of his monthly salary as then paid by the City of Asheville, said seventy percent (70%) of said monthly salary shall be paid in monthly installments by the board of trustees of the firemen's fund; provided, however, that if under the North Carolina Workmen's Compensation Act he shall receive any payments due to such disability, then the amount of such compensation payment shall be deducted from the amount of his said monthly installment, and there shall be paid from the firemen's fund only such amount as may be required to make up his said monthly installment; provided, further, that if such member of the Asheville Fire Department shall be killed in the line of his duties, or shall die as a result of a disability as defined in this section, the surviving spouse shall receive, so long as said surviving spouse remains unmarried, the same monthly installment as the member would have received under this section; provided, further, that if, under the North Carolina Workmen's Compensation Act such surviving spouse elects to take a lump sum settlement of the amount due on account of the death of the member, then such surviving spouse, so long as said surviving spouse remains unmarried, shall receive from the firemen's fund each month a sum equal to the difference between the monthly installment that would have been received under the Workmen's Compensation Act and the amount of the deceased member's monthly installment, and such payments from the firemen's fund shall continue so long as said surviving spouse remains unmarried.

(b) If any member of the Asheville Fire Department, as set out in this act, becomes disabled not in the line of duty, he shall receive annually a sum equal to three and one-half percent (3 1/2%) of his total earnings from the beginning of his service on the Asheville Fire Department to the time of his disability; provided, however, that three years' service with the Asheville Fire Department is required before any member thereof can take advantage of this section; provided, further, that if such member should die from disability not received in the line of duty, the surviving spouse shall receive one-half of the pension paid to the member at the time of death so long as said surviving spouse remains unmarried.

(c) If any member of the Asheville Fire Department, as set out in this act, shall die leaving no surviving spouse entitled to benefits in accordance with Section 21 or 22 of this act, the funds deducted from such fireman's monthly salary and paid to the firemen's fund shall be paid as follows:

(1) to the child or children of such fireman in equal shares;

(2) if there is no surviving child or children, to the designated beneficiary of the fireman, if any;

(3) if there is no surviving child or children or designated beneficiary, to the executors or administrators of the fireman's estate.

Sec. 23. Reserved.

H. B. 746 CHAPTER 427

AN ACT TO ALLOW ELIZABETH CITY AND HERTFORD REDEVELOPMENT COMMISSIONS TO DISPOSE OF PROPERTY AT PRIVATE SALE.

The General Assembly of North Carolina enacts

Section 1. Section 4 of Chapter 1060, Session Laws of 1971, as amended by Chapter 470, Session Laws of 1975, is further amended by adding a new sentence thereto to read

"This act shall also apply to the City of Elizabeth City and the Town of Hertford, the Town of Edenton, the Town of Plymouth, and to Pasquotank County."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of April, 1979.

H. B. 892 CHAPTER 428

AN ACT CONCERNING SECURITY FOR REVENUE BOND ANTICIPATION NOTES.

The General Assembly of North Carolina enacts

Section 1. G.S. 159-163 is amended by rewriting the third sentence to read as follows

"Notes issued in anticipation of the sale of revenue bonds shall be secured to the extent and as provided in the resolution authorizing the issuance of such notes, by a pledge, charge, and lien upon the proceeds of the revenue bonds in anticipation of the sale of which such notes are issued and upon the revenues securing such revenue bonds, provided, however, that such notes shall be payable as to both principal and interest from such revenues if not paid from the proceeds of such revenue bonds or otherwise paid."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of April, 1979.

S. B. 505 CHAPTER 429

AN ACT AMENDING CHAPTER 188 OF THE 1977 SESSION LAWS RELATING TO THE POLICEMEN'S PENSION FUND OF THE CITY OF ASHEVILLE.

The General Assembly of North Carolina enacts

Section 1. Chapter 188 of the 1977 Session Laws is hereby amended as follows.

(a) Delete all of Section 4(c)(2) and substitute in lieu thereof the following

"(2) A qualified voter of the City of Asheville knowledgeable in pension matters who is appointed by the City Council and who shall serve at the pleasure of the Council;"

(b) Delete the last sentence of Section 4(c)(3) and substitute in lieu thereof the following:

"Vacancies occurring during the terms of office of the Board of Trustees shall be filled from the same category as the vacancy."

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service of said city, future employees so assigned to the fire department shall participate in and contribute to such employee retirement and disability plan pursuant to the terms and conditions thereof, and shall not participate in or contribute to the pension plan established by this act; provided, however, that any such employees' retirement and disability plan hereafter established by ordinance of the Asheville City Council shall meet standards of actuarial soundness as required by North Carolina General Statutes 160A-163 and that the city shall contribute such sums of money to said plan as may be required to meet the standards of actuarial soundness as certified by a qualified actuary as defined in North Carolina General Statutes 160A-163(d).

Sec. 28. No provision of this act shall be construed so as to modify in any respect the benefits granted under Chapters 242 and 243 of the 1939 Session Laws, amended by Chapters 310 and 311 of the 1945 Session Laws and Chapters 320 and 322 of the 1955 Session Laws to employees of the Asheville Police Department and the Asheville Fire Department assigned to said departments prior to the effective date of this act or to the effective date of any such employees' retirement and disability plan covering future employees of such departments; provided, however, that employees of said departments covered by this act may within one year after the effective date of any new plan, voluntarily and irrevocably elect in writing to withdraw from participation in said existing plan and to participate in and contribute to the new plan for their department, in which case they shall be entitled to no further benefits of said existing plan and shall be entitled to withdraw all contributions made by them into said plan.

Sec. 29. The board of examiners and the board of trustees heretofore established by this act may be granted additional authority to administer any new plans as the city council of the City of Asheville may deem advisable and authorized by enactment of appropriate ordinances.

Sec. 30. All laws and clauses of laws in conflict with the provisions of this act are hereby repealed to the extent of such conflict.

Sec. 31. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of April, 1977.

S. B. 175 CHAPTER 189

AN ACT TO AUTHORIZE THE CORONERS OF CLEVELAND AND RUTHERFORD COUNTIES TO ORDER AUTOPSIES TO BE PERFORMED AND TO COMPLETE THE MEDICAL CERTIFICATION OF DEATH WITH RESPECT TO DEATHS WITHIN THEIR JURISDICTIONS.

The General Assembly of North Carolina enacts:

Section 1. The coroners of Cleveland and Rutherford Counties shall have the authority to order autopsies to be performed by persons authorized by law to perform autopsies with respect to all deaths within their jurisdictions. The coroners may order autopsies to be performed on those deceased persons receiving Veteran's Administration disability benefits at the time of their death. The coroners shall also have the authority to make and sign the medical certification of death with respect to all deaths where there is no evidence of foul play within their jurisdictions. The provisions of this section shall not

Disability Fund only such amount as may be required to make up his said monthly installment; provided, further, that if such member of the Asheville Police Department shall be killed in the line of duty, or shall die as a result of a disability in the line of duty, as defined in this act, the surviving spouse shall receive, so long as said surviving spouse remains unmarried, the same monthly installment which such member would have received under this section; provided, further, that if, under the North Carolina Workmen's Compensation Act such surviving spouse elects to take a lump sum settlement of the amount due on account of the death of the member, then such surviving spouse, so long as said surviving spouse remains unmarried, shall receive from the Policemen's Pension and Disability Fund [illegible] monthly installment, and such payments from the Policemen's Pension and Disability Fund shall continue so long as such surviving spouse remains unmarried.

(c) If any member of the Asheville Police Department, as defined in this act, becomes permanently disabled not in the line of duty and is unable to perform as a policeman, he shall receive annually a sum equal to three and one half percent (3 1/2%) of his total earnings from the beginning of his service with the Asheville Police Department to the time of his disability; provided that no member shall receive credit for more than 20 years service; provided, further, that three years service with the Asheville Police Department is required before any member thereof can take advantage of this section; provided, further, that if he should die while in active service with the Asheville Police Department not in the line of duty or if he should die while receiving benefits for disability retirement not in the line of duty, the surviving spouse shall receive one half of the pension paid to the member at the time of death so long as said surviving spouse remains unmarried.

(d. No member of the Asheville Police Department, as defined in this act, who has attained the age of 60 years shall be eligible for disability or death benefits set forth in Section 9 but shall receive benefits under the terms of Section 8, of this act.

(e) If any member of the Asheville Police Department, as set out in this act, shall die leaving no surviving spouse entitled to benefits in accordance with Section 8 or 9 of this act, the funds deducted from such policeman's monthly salary and paid to the Policemen's Fund shall be paid as follows:

(1) to the child or children of such policeman in equal shares;

(2) if there is no surviving child or children, to the designated beneficiary of the policeman, if any;

(3) if there is no surviving child or children or designated beneficiary, to the executors or administrators of the policeman's estate."

(e) Delete all of Section 10 and substitute in lieu thereof the following

"Sec. 10. Disability retirement administration. (a) For the purposes of this act, 'disability' shall mean a certification by the Board of Examiners, after a medical examination of a member of the Asheville Police Department qualifying under this act, that such a member is mentally or physically totally incapacitated for the further performance of duty as a policeman, that such incapacity is likely to be permanent, and that such member should be retired

(b) Once each year during the first five years following retirement of a member for reasons of disability under Section 9 of this act, and once in every

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three year period thereaf[illegible] the application shall, if requir[illegible] disabi[illegible] age of 60 years to undergo [illegible] medic[illegible] at [illegible] by and upon b[illegible] the Board of Examiners. Should [illegible] attained the age of 60 years refus[illegible] any such [illegible] by a doctor or phy[illegible] his pension may be discontinue[illegible] Should he refuse examination for an[illegible] [illegible] by the Board of Exam[illegible]

(c) Should a disability pens[illegible] active service at a compensation [illegible] disability, his disability retire[illegible] member of this plan, and he sh[illegible] which is applicable d[illegible] service on the basis o[illegible] disability shall be rest[illegible] subsequent retirement, he shall

(f) Delete all of Section 11

(g) Delete all of Section 12

"Sec. 12. Board of Exami[illegible] handling of claims; general pr[illegible] Examiners to determine claim[illegible]

(b) Said Board shall consist [illegible] as follows

(1) the Mayor of the City

(2) the City Manager of [illegible] Board,

(3) the Council of the C[illegible] years beginning on th[illegible] years thereafter a me[illegible]

(4) the Police Departme[illegible] three years beginnin[illegible] three years thereaft[illegible]

(c) Delete all of Section 5 and substitute in lieu thereof the following:

"Sec. 5. Eligibility for retirement benefits. Any person who is now a member of the Asheville Police Department, as shown by the records of the City of Asheville, and who becomes a member of the Police Department on or after March 17, 1939, subject to the provisions of Section 14 of this act, shall be entitled to a retirement benefit in accordance with the following provisions:

(a) Normal Retirement. If such member has completed 20 years of service with the said Police Department, he may, upon arriving at the age of 60 years, or if such member has completed 30 years of service and has arrived at the age of 55 years, retire from the Police Department of the City of Asheville and receive benefits of retirement as set out in Section 8 of this act.

(b) Early Retirement. If such member has completed 20 years of service with said Police Department, he shall be eligible to retire on the first day of any month coinciding with or following attainment of age 55 (hereinafter referred to as his Early Retirement Date) and shall be eligible to receive a deferred retirement benefit commencing upon attainment of age 60. Such benefit shall be equal to the benefit calculated under Section 8 with such calculation being made as of his Early Retirement Date. Such member may elect to receive immediate Early Retirement Benefit commencing on his Early Retirement Date or on the first day of any month between his Early Retirement Date and attainment of age 60. Such benefit shall be equal to the benefit calculated as of his Early Retirement Date with the amount of such benefit being reduced by 1/15th for each year that the commencement of benefit precedes his 60th birthday, with pro rata reduction for full months totalling less than one year.

(c) Deferred Vested Benefit. Such member who terminates his employment after completing 20 years of service with said Police Department shall be entitled to a deferred benefit commencing when he reaches his 60th birthday. Such benefit shall be equal to the benefit calculated under Section 8 with such calculation being made as of the date of his termination of employment. Such member may, upon attainment of age 55, elect to receive an immediate Early Retirement Benefit under the terms and conditions set forth in subsection (b) of this Section 5."

(d) Delete all of Section 9 and substitute in lieu thereof the following:

"Sec. 9. Disability and death benefits. (a) For purposes of this act, references to 'line of duty' shall mean a disability or death which is the natural and proximate result of an accident occurring while in the actual performance of duty as a member of the Asheville Police Department, as defined in this act, at some definite time and place. 'Not in line of duty' shall mean the disability or death occurring as a result of any cause other than 'line of duty'.

(b) If and in the event any member of the Asheville Police Department qualifying under this act shall become disabled while acting in the line of duty, as defined in this act, and is unable to work as a policeman, he shall receive monthly a sum equal to seventy percent (70%) of his basic monthly salary rate as then paid by the City of Asheville, said seventy percent (70%) of said basic monthly salary rate shall be paid in monthly installments by the Board of Trustees of the Asheville Policemen's Pension and Disability Fund; provided, however, that if under the North Carolina Workmen's Compensation Act he shall receive any payments due to such disability, then the amount of such compensation payments shall be deducted from the amount of his said monthly installment, and there shall be paid from the Policemen's Pension and

Department, who shall not be the Police Chief, to be the fourth member of said Board;

(5) the Council of the City of Asheville shall appoint for a term of three years beginning on the date of ratification of this act and every three years thereafter, a qualified voter of the City of Asheville [illegible] to be the fifth member of said Board.

In the event of a vacancy on said Board, each vacancy shall be filled from the same category as the vacancy.

(c) The Board of Trustees shall review the findings of the Board of Examiners and may approve or reverse the findings of the Board of Examiners [illegible] Such appeal must be filed by the policeman claimant, his attorney or representative in writing with the City Clerk within 10 days after receipt of written denial of the appeal of the claim by the Board of Trustees. Such appeal will be heard at a regular City Council meeting within six weeks of the filing of the appeal by said policeman claimant, his attorney or representative. The decision of the City Council shall be final.

If the Board of Trustees reverses, in whole or in part, the findings of the Board of Examiners, the Board of Examiners shall have the right to appeal to the Asheville City Council. Such appeal must be filed by the Board of Examiners in writing with the City Clerk within 10 days after written notice of the reversal by the Board of Trustees. Such appeal will be heard at a regular City Council meeting within six weeks of the filing of the appeal by the Board of Examiners. The decision of the City Council shall be final."

Sec. 2. All laws and clauses of laws in conflict with the provisions of this act are hereby repealed to the extent of such conflict.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of April, 1979.

H. B. 50 CHAPTER 430

AN ACT TO INCLUDE REPRESENTATIVES OF THE COASTAL RESOURCES COMMISSION, THE ZOOLOGICAL PARK COUNCIL AND THE SOIL AND WATER CONSERVATION COMMISSION ON THE BOARD OF NATURAL RESOURCES AND COMMUNITY DEVELOPMENT AND TO REDUCE THE SIZE OF THE BOARD.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143B-280 as the same appears in the 1978 Replacement Volume 3C of the General Statutes is amended by rewriting the third paragraph thereof as follows:

"The Board of Natural Resources and Community Development shall consist of the following 21 members. The chairman of each of the following commissions: the Wildlife Resources Commission, the Environmental Management Commission, the Marine Fisheries Commission, the Coastal Resources Commission and the Soil and Water Conservation Commission; the chairman of each of the following councils: the Earth Resources Council, the Community Development Council, the Forestry Council, the Parks and

three year period thereafter, the Board of Examiners may, and upon its [illegible] shall, require any disability pensioner who [illegible] the [illegible] years to undergo [illegible] made at a place mutually agreed upon by the physician or physicians designated by the Board of Examiners. Should any disability pensioner who has not yet attained the age of 60 years refuse to have at least one medical examination in any such year by physician or physicians designated by the Board of Examiners, his pension may be discontinued until his withdrawal of such refusal, and should his refusal continue for one year, all his rights in and to his pension may be revoked by the Board of Examiners. Should a physician or physicians report and certify to the Board of Examiners that such disability pensioner is engaged in or is able to engage in work as a policeman or in another law enforcement related occupation paying more than the difference between his disability pension and his final compensation on the date disability began, and should the Board of Examiners concur in such report, then the amount of his pension shall be reduced to an amount which, together with his disability pension and the amount earnable by him, shall equal the amount of his final compensation at the date of disability. Should his earning capacity be later changed, the amount of his pension may be further modified; provided, that the new pension shall not exceed the amount of the pension originally granted or an amount, which when added to the amount earnable by the disability pensioner together with his disability pension, equals the amount of his final compensation at the date of disability. A disability pensioner restored to active service at a salary less than his final compensation at the date of disability shall not again become a member of this plan.

(c) Should a disability pensioner under the age of 60 years be restored to active service at a compensation not less than his final compensation at date of disability, his disability retirement shall cease, and he shall again become a member of this plan, and he shall contribute thereafter at the contribution rate which is applicable during his subsequent membership service. Any prior service on the basis of which his service was computed at the time of his disability shall be restored to full force and effect, and in addition, upon his subsequent retirement, he shall be credited with all his service as a member."

(f) Delete all of Section 11.

(g) Delete all of Section 12 and substitute in lieu thereof the following:

"Sec. 12. Board of Examiners; established; composition; terms of office; handling of claims; general provisions. (a) There is hereby created a Board of Examiners to determine claims coming under this act.

(b) Said Board shall consist of five members who shall be appointed or elected as follows:

(1) the Mayor of the City of Asheville shall be the chairman;

(2) the City Manager of the City of Asheville shall be a member of said Board;

(3) the Council of the City of Asheville shall appoint for a term of three years beginning on the date of ratification of this act and every three years thereafter a medical doctor to be the third member of said Board;

(4) the Police Department of the City of Asheville shall elect for a term of three years beginning on the date of ratification of this act and every three years thereafter a person who is a member of said Police

fire station died of a myocardial infarction, *held* to disclose death from a disability occurring in line of duty, entitling his widow to the benefits provided by the act. Chapter 220, Session Laws of 1955.

6. Same—

The determination by a pension board that a member's death or disability was not received in line of duty is a legal conclusion and reviewable notwithstanding it is denominated a finding of fact.

APPEAL by Board of Examiners from *Martin, S.J.*, 8 May 1967 Session of BUNCOMBE.

Civil action arising from a claim filed by the widow of Lt. Arthur Walter Duckett for an increase of pension benefits. The claim was first heard by the Board of Examiners of Asheville Firemen's Pension and Disability Fund, where evidence was offered substantially as follows:

Mildred Lunsford Duckett stated, in substance, that her husband had worked for the Asheville Fire Department continuously from 1924 or 1925 to the time of his death; her husband was and had been in good health and had given no indication of any heart condition or other serious physical disability.

James R. Peterson testified that he was a fireman employed by the City of Asheville on 7 March 1966. On that day he, Lt. Arthur Walter Duckett, the officer-in-charge, and fireman Ray Rathbone went to a brush fire on Chapel Park Place. Upon arrival, and after giving necessary instructions to the firemen, Lt. Duckett began to beat the fire out with a pine branch. After about fifteen minutes and when the fire was under control, Peterson observed the Lieutenant walk up to and lean on the engine. Lt. Duckett remarked that his chest was hurting and he thought he had indigestion. He told the firemen to hurry back to the Station. Traffic delayed the parking of the engine when they approached the Station; about five minutes later, as Lt. Duckett left the engine and walked [illegible] of the 150 feet into the Station with Peterson, [illegible] the engine. Upon entering the Station, Rathbone found Lt. Duckett lying near the bathroom door. An ambulance was called and first aid administered, but in the opinion of Peterson, Lt. Duckett was dead when he was carried away in the ambulance. Peterson said: "There was no indication that he (Duckett) was overcome with smoke or anything of that sort."

The testimony of fireman Rathbone, in essence, corroborated the testimony of fireman Peterson.

The death certificate listed coronary occlusion due to coronary thrombosis as the cause of death.

Dr. Zebulon Weaver, III, admitted as a medical expert, testified that he did not know Lt. Arthur Walter Duckett. In response to a

cers found Buchanan and defendant in a parked car on a public highway, was amply sufficient to support the verdict. Hence, the motions for judgment as in case of nonsuit were properly overruled.

Defendant did not testify. Defendant offered evidence which, he contended, tended to show Buchanan was not a credible witness.

At trial, defendant was represented by able and experienced counsel. On this appeal, his counsel has overlooked no contention that might be made in defendant's behalf. However, the assignments do not disclose prejudicial error or present questions of sufficient substance to warrant detailed discussion. Hence, the verdict and judgment will not be disturbed.

No error.

IN RE: THE CLAIM OF MILDRED LUNSFORD DUCKETT, WIDOW OF LT. ARTHUR WALTER DUCKETT, FOR PAYMENT OF PENSION BY BOARD OF EXAMINERS OF ASHEVILLE FIREMEN'S PENSION AND DISABILITY FUND.

(Filed 27 September, 1967.)

1. Retirement Systems § 5—

The right to a pension depends upon the provisions of the statute providing the benefits and must be determined primarily from the terms of the statute.

2. Statutes § 5—

The words of a statute must be given their natural and ordinary meaning, and when the meaning of a statute is plain and unambiguous, the courts must construe the act as written and do not have the power to insert provisions not contained therein or to delete provisions there appearing.

3. Same—

Where a statute provides benefits upon conditions joined by the disjunctive "or", one alternative may not be made a part of the other, and a person is entitled to its benefits if he comes within either condition.

4. Retirement Systems § 5—

A statute providing benefits if a member of a retirement system should become disabled "while acting in line of his duty" or if he should die as a result of such disability, *held* not to require a causal relation between disability of a member and his work, but only that the disability occur while the member is in the discharge of his duties.

5. Same—

The evidence tending to show that a fireman, after helping extinguish a brush fire with a pine branch during the course of some 15 minutes, complained of pain in his chest, and that minutes after returning to the

and the call was answered by Lt Duckett and Firemen Peterson and Rathbone using a fire truck for transportation, that said fire was what is known as a brush-fire and Lt Duckett, after instructing his helpers, got a pine brush about 3 feet long and fought said fire with said pine brush for about 15 minutes and until the same was put under control.

"5. That, immediately after fighting said fire as aforesaid, Lt Duckett was leaning up against the fire truck and on inquiry by Fireman Rathbone stated that he was sick and expressed a desire to return immediately to said Station

"6. That when they arrived at the Station Lt. Duckett got out of the truck and went into the Station and in a few minutes he was found lying unconscious near the entrance to the bathroom He was taken immediately to a hospital, but was pronounced dead upon arrival

"7. That Lt. Duckett worked regularly and was never off because of sickness that he had no personal physician and had not needed the services of a physician for years, with two minor exceptions; that he had never suffered from or complained about any heart affliction and his wife, who was his constant companion except when working, had never heard of any heart condition

"8 From the foregoing facts the Board of Examiners finds that Lt Duckett became disabled and died while acting in the line of his duties as a member of the Asheville Fire Department.

"9. The Board therefore concludes and finds that under the provisions of Section 7, Chapter 320, of Laws of 1951, upon the death of said disability while acting in the line of his duties Lt Duckett would have been entitled to a monthly sum equal to 70% of his monthly salary then paid him by the City of Asheville and consequently upon his death his widow [illegible] the same sum so long as she remains unmarried."

The claimant petitioned the Superior Court for a writ of certiorari, which was allowed. The matter was heard before Judge Martin, who sustained the pertinent objections and exceptions of the petitioner, reversed the order of the Board of Examiners and ordered the cause remanded to the Board of Examiners for entry of an order awarding the pension in accordance with his judgment. The Board appealed.

O. E. Starnes, Jr., for appellant Board of Examiners.

Don C. Young and Lee, Lee & Cogburn for appellee.

hypothetical question, he testified that in his opinion the symptoms presented "are rather typical of myocardial infarction, or layman's terms of a heart attack." He also stated, "But, as far as coronary occlusion itself causing the infarction, we do not have any real evidence that the exertion itself will cause the infarction itself." He further testified in general terms as to heart disease.

Thereafter, on 11 October 1966, the Board met and found, *inter alia:*

> "That as the fire-fighting was being concluded Lt. Duckett suffered a heart attack, and which resulted in his death a few minutes later at the Fire Station;
>
> "That said heart attack was not caused and did not result from exertion or exhaustion related directly or indirectly to fire fighting, or line of duty, but rather resulted from some disease or condition or infirmity not caused by his work and duties as a fireman, and his death or disability was not received in line of duty.
>
> . . .
>
> "The Board thereupon agreed unanimously that Mrs. Duckett was entitled to receive one-half of the pension, which is the amount which she has been receiving, and that she was not entitled to receive 70% of Lt. Duckett's monthly salary as requested."

The claimant excepted and objected to findings of fact and conclusions set forth in the second and third unnumbered paragraphs set out above. Petitioner further objected to the failure of the Board of Examiners to find the following facts and conclusions therefrom as conforming to the facts, evidence and law in said matter:

> "1. That Lieutenant Arthur Walter Duckett was an employee of the City Fire Department and had been for several years and had attained the rank of Lieutenant in said Department.
>
> "2. That Lieutenant Duckett on March 7, 1966, was stationed at Biltmore Fire Station and on said date he was on duty from 7:30 o'clock A.M. to .....
>
> "3. That Lieutenant Duckett was in charge of said Fire Station on said date and Fireman Peterson and Rathbone were under his charge and that his line of duties on said date was to assist in and oversee the extermination of fires in that area.
>
> "4. That about 3:30 o'clock P.M. they were summoned to a fire on Chapel Park Place, 2 or 3 miles from said Station,

islature and lead to an absurd result. In support of this contention it cites *In re Hickerson*, 235 N.C. 716, 71 S.E. 2d 129, which holds:

> "In this connection, in *S. v. Barksdale*, 181 N.C. 621, 107 S.E. 505, this Court, in opinion by Hoke, J., stated that parts of the same statute, and dealing with the same subject, are 'to be considered and interpreted as a whole, and in such case it is the accepted principle of statutory construction that every part of the law shall be given effect if this can be done by any fair and reasonable intendment, and it is further and fully established that where a literal interpretation of the language of a statute will lead to absurd results, or contravene the manifest purpose of the Legislature, as otherwise expressed, the reason and purpose of the law shall control and the strict letter thereof shall be disregarded.' . . ."

The case of *Hutchens v. Court*, 39 Ind. App. 382, 78 N.E. 1061, represents a line of authority which would seem to sustain appellant's position. Here the statute authorized a pension to the widow and children of a policeman on his death "while in line of his duty or from natural causes." The court held that a pension under this act was not authorized where a policeman while at his place of duty committed suicide because of insanity without a showing that the insanity was the result of the performance of his duty. This case is factually distinguishable from the instant case in that in *Hutchens* the deceased died because of self-destruction or his own wrongdoing and while he was not acting in the line of his duty.

In *State, ex Rel. v. Board of Trustees*, 192 Mo. App. 583, 184 S.W. 929 the Missouri Court considered a pension statute which provided: "If any member of such fire department shall while in the performance of his duty be killed or die as the result of an injury received in the line of his duty, or of any disease contracted by reason of his occupation as fireman, or shall die from any cause whatever while in such service." Holding that the widow of a fireman who died as a result of being shot during a quarrel in a saloon [illegible] pension under this act, the court stated: "So that the phrase 'while in such service' is not synonymous with 'while a member of the fire department.' But the word 'service' means the 'same service' referred to in the three preceding clauses, that is to say, a service rendered 'in the line of his duty' or 'by reason of his occupation as a fireman.' The word 'service' as here used means the act of serving, the labor performed or the duties required of a fireman, and is not used to refer to or designate a department of the city's activities." . . .

BRANCH, J. "The right to a pension depends upon statutory provision therefor, and the existence of such right in particular instances is determinable primarily from the terms of the statute under which the right or privilege is granted." 40 Am. Jur., Pensions, Sec. 23, p. 980.

Chapter 320 of the 1955 Session Laws of North Carolina provides in pertinent part:

> "Sec. 7. Payment for Disability in Line of Duty.—That if and in the event any member of the Asheville Fire Department qualifying under this Act shall become disabled while acting in line of his duties, and is unable to work, he shall receive monthly a sum equal to seventy (70%) per cent of his monthly salary as then paid by the City of Asheville, said seventy (70%) per cent of said monthly salary shall be paid in monthly installments by the Custodian of the Firemen's Pension Fund; . . . Provided, further, that if such member of the Asheville Fire Department shall be killed in the line of his duties, or shall die as a result of a disability as defined in this Section, his widow, if he be married, shall receive, so long as she remains unmarried, the same monthly installments as he would have received under this Section."

It is not controverted that deceased died as a result of a disability. Thus, the crucial question is whether there is sufficient, competent, material, substantial evidence to support the Board's finding that decedent was not disabled "while acting in line of his duties." In order to answer this question we must determine the meaning of "while acting in the line of his duties" as used in the statute amending the Act establishing the pension fund for members of the Asheville Fire Department. We are unable to find a North Carolina case which has decisively interpreted the phrase, "while acting in the line of his duties." Neither do we find much help or guidance from the many cases arising under our Workmen's Compensation Act, since there, compensation is only allowed when there is an injury by accident arising out of and in the course of employment. *Wilson v. Mooresville*, 222 N.C. 283, 22 S.E. 2d 907. Thus, without these additional requirements in the controlling statute, we must readily concede that "while acting in line of his duties" as used in the instant case has a much broader meaning than the language used in the Workmen's Compensation Act.

Appellant contends that there must be causation, *i.e.*, the disability or death must be produced by or arise from the employment, and that to hold otherwise would contravene the purpose of the leg-

It is obvious in this case that the court considered "while in line of duty" a plain, direct and unambiguous phrase which required no judicial interpretation. Further, the disjunctive participle "or" is used to indicate a clear alternative. The second alternative is not a part of the first and its provisions cannot be read into the first.

Recognizing the rule that the words of a statute must be given their natural or ordinary meaning (*Semonary, Inc. v. Wake County*, 251 N.C. 775, 112 S.E. 2d 528), we turn to Webster's Third New International Dictionary for the following definitions:

> Line of duty—"all that is authorized, required, or normally associated with some field of responsibility (as a policeman, fireman, or soldier)—used esp. in connection with assessment of responsibility for or classification of sickness, injury, or death of persons subject to a line of duty (it is now customary to consider any sickness or injury of a member of an armed service that is suffered while on active duty to have been incurred in the line of duty in the absence of personal fault or neglect or of existence of the condition prior to entry into service)."
>
> While—"a period of time . . . the time during which an action takes place or a condition exists . . . the time marked by the occurrence of an action or a condition."

Thus, we hold that a person is acting "while in the line of duty" when he acts at the time and place he is required to be at work and when he is engaged in the performance of his duties or is engaged in activities incidental to his duties. The term "while in line of duty" is synonymous with "while in the course of employment" or "while in discharge of duty."

The statute before us is clear, positive and understandable, and explains a self-explaining

In order for appellant to prevail we would have to read into the statute [illegible] relation between the [illegible] This we cannot do.

> ". . . the court must construe the act as written. The legislature has power to change the law. The Court does not have that power." *Jenkins v. Dept. of Motor Vehicles*, 244 N.C. 560, 565, 94 S.E. 2d 577.

Appellant further contends that the Superior Court is bound by the Pension Board's finding of fact. The finding of fact by the Board that decedent's death or disability was not received in line of duty was in reality a legal conclusion determinative of the parties' rights and is reviewable by the Superior Court, although

"And so on throughout the Act, the disability, injury, incapacity, or whatever it is, must arise from, or be connected in some way with, the performance of the duties of a fireman."

The phrase "while in line of duty" was discussed in the case of *Allen v. B., C. R. & N. Ry. Co.*, 57 Iowa 623, 11 N.W. 614, in an action for personal injuries sustained by a brakeman while getting off a moving train at a switch when a witness was allowed to testify that it was "in the line of his duty" for a brakeman to so do while the train was in motion. In pertinent part, the court stated:

> "The duty of a brakeman may be prescribed by rule of the company employing him, or by custom prevailing in the operation of railroads. It pertains to the particular services performed and the purposes to be accomplished.
>
> "The expression in the evidence just quoted 'in the line of duty,' was doubtless used in its correct meaning as synonymous with the words 'in the discharge of duty.' The court, in the instructions, used the expression in this sense. The jury understood the witnesses, when they declared an act of the brakeman to be 'in the line of duty,' to express the opinion that the duty of the brakeman required him to perform the act. . . ."

In the case of *Mook v. City of Lincoln*, 146 Neb. 779, 21 N.W. 2d 743, a widow was granted a pension under a statute which provided for a pension in case of the death of a fireman "while in the line of duty, *or* death is caused by or is the result of injuries received while in the line of duty, ..." The plaintiff's decedent collapsed while on the roof of a building fighting a fire, and died within an hour, the cause of his death being angina pectoris. In this case the defendant contended, as does the defendant here, that in order for the plaintiff to recover she must prove not only that death was in the line of duty, but also that death was the result of the duty and not merely coincident with it. The court, in deciding for the plaintiff, stated:

> "'" * * where the words of a statute are plain, direct and unambiguous, no interpretation is needed to ascertain their meaning * * *."' In the absence of anything to indicate the contrary, words must be given their ordinary meaning. It is not within the province of a court to read a meaning into a statute that is not warranted by the legislative language. Neither is it within the province of a court to read plain, direct, and unambiguous language out of a statute. If possible, the entire statute is to be applied as written. We think this statute meets the test of being plain, direct, and unambiguous."

it was denominated as a finding of fact. *Casualty Co. v. Funderburg*, 264 N.C. 131, 140 S.E. 2d 750; *Warner v. W. & O., Inc.*, 263 N.C. 37, 138 S.E. 2d 782.

There was not sufficient, competent, material substantial evidence to support the Board's conclusion that decedent was not disabled while acting in line of his duties.

Affirmed.

STATE v. JOHN EDWARD GEORGE.

(Filed 27 September, 1967.)

1. **Criminal Law §§ 34, 89, 169—**

In a prosecution for armed robbery, testimony elicited on cross-examination of defendant that he had been arrested for a similar offense in another state is not prejudicial, when defendant had testified earlier on direct examination as to the prior offense, and when the questioning was for the purpose of impeaching defendant's credibility as a witness.

2. **Criminal Law § 8—**

Where a statute provides for the dismissal of charges against a defendant if he is not tried within a specified time, the defendant is not entitled to relief when a trial is held within the statutory time but results in a mistrial upon the failure of the jury to reach a verdict, since, under such circumstances the State is not responsible for the delay.

3. **Same— Where trial within period prescribed by Interstate Agreement on Detainers Act results in mistrial, defendant is not entitled to discharge at later trial had with due diligence.**

Defendant's trial in this State upon his return under the Interstate Agreement on Detainers, G.S. 148-89, resulted in a mistrial. At the second trial defendant's motion for change of venue was granted, and on the following day he was removed to a third county pursuant to a writ of *habeas corpus ad prosequendum*. Thereafter, defendant moved that the charge against him be dismissed because more than 180 days had elapsed since he had been returned to the State. *Held:* The first trial having been held within the 180 day period, the motion was correctly denied, the delays subsequent thereto being in the nature of reasonable continuances and the ruling of the lower court that the State had used due diligence in bringing the case to trial is affirmed.

4. **Same—**

G.S. 148-89, Art. IV(c), requiring a prisoner to be tried within 120 days after the solicitor requests his return to this State, does not apply when the prisoner is returned at his own request. G.S. 148-89, Art. III.

APPEAL by defendant from *McLean, J.*, 30 January 1967, Regular Criminal Session of GASTON Superior Court.

Complete text of Ordinance No. 1484 will be found in Ordinance Book No. 10 at page ~~243.~~ 209 ½

ORDINANCE NO. 1485 - BUDGET ORDINANCE AMENDMENT TO APPROPRIATE FUNDS FOR THE RETIRED MEMBERS AND SURVIVORS OF THE POLICE PENSION AND DISABILITY FUND

15. Consideration was given to a budget ordinance amendment to set up separate appropriation in the amount of $32,000 for payment to retired members and survivors of the Asheville Police Pension and Disability Fund.

Mayor McDevitt said members of Council were furnished copies of the ordinance and it would not be read in its entirety.

Councilman Boland moved for the adoption of Ordinance No. 1485. This motion was seconded by Vice-Mayor Bratton.

On a roll call vote of 6-0, Ordinance No. 1485 passed on first and final reading.

Complete text of Ordinance No. 1485 will be found in Ordinance Book No. 10 at page ~~244.~~ 210 ½

CLAIMS - HARRY COOLEY (WATER) - ROBERT JUSTICE (WATER) - CARVER REALTY (METER READERS

The City Clerk presented claims received from Harry Cooley (Water) - Robert Justice (Water) - Carver Realty (Meter Readers).

Mayor McDevitt referred the claims to the Corporation Counsel for investigation and recommendation.

ADJOURNMENT TO EXECUTIVE SESSION

Councilman Frank moved to adjourn to executive session, and then for adjournment. This motion was seconded by Councilman Price and carried unanimously. The meeting concluded at 8:30 p.m.

Gary McDevitt
MAYOR

William J. Maxwell
CITY CLERK

RESOLUTION NO. 84-216 - RESOLUTION AUTHORIZING THE PURCHASING DIRECTOR TO DISPOSE OF PERSONAL PROPERTY BY PRIVATE SALE

5. Consideration was given to a resolution authorizing the Purchasing Director to dispose of personal property by private sale.

Mayor McDevitt said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Price, seconded by Councilman Myers, Resolution No. 84-216 was unanimously adopted.

Complete text of Resolution 84-216 will be found in Resolution Book No. 15 at page ~~85~~ 91 92

MOTION RELATIVE TO APPOINTMENTS TO THE PLANNING & ZONING COMMISSION

Councilman Bissette moved that the four appointments to be made at today's meeting be done with one motion rather than individual motions on each person. This motion was seconded by Vice Mayor Bratton and carried unanimously.

RESOLUTION NOS. 84-217, 84-218, 84-219, and 84-220 - RESOLUTIONS APPOINTING MEMBERS TO THE PLANNING AND ZONING COMMISSION (JAN WIEGMAN - MICHAEL D. MOSER - WILLIAM C. FRUE, JR. AND WANDA HENRY-COLEMAN)

6. Consideration was given to resolutions appointing Jan Wiegman, Michael D. Moser, William C. Frue, Jr. and Wanda Henry-Coleman as members of the Planning and Zoning Commission.

Upon motion of Councilman Price, seconded by Councilman Frank, Resolution Nos.84-217, 84-218, 84-219, and 84-220 were unanimously adopted.

Complete text of Resolution 84-217 will be found in Resolution Book No. 15 at page ~~86~~ 92 92 (Jan Wiegman)

Complete text of Resolution 84-218 will be found in Resolution Book No. 15 at page ~~87~~ 93 92 (Michael D. Moser)

Complete text of Resolution No. 84-219 will be found in Resolution Book No. 15 at page ~~88~~ 94 92 (William C. Frue, Jr.)

Complete text of Resolution No. 84-220 will be found in Resolution Book No. 15 at page ~~89~~ 95 92 (Wanda Henry-Coleman)

RESOLUTION NO. 84-221 - RESOLUTION OF INTENT TO CLOSE AN UNNAMED ALLEY BETWEEN ASHELAND AVENUE AND ASTON STREET AND SCHEDULING A PUBLIC HEARING FOR DECEMBER 18, 1984

7. Consideration was given to a resolution of intent to close an unnamed alley between Asheland Avenue and Aston Street and scheduling a public hearing for December 18, 1984.

Tuesday, November 20, 1984 - 4:00 p.m.

Regular Meeting

Present: Mayor Larry McDevitt, Presiding; Vice-Mayor Wilhelmina Bratton; Councilmen Mary Lloyd Frank, Norma T. Price, Walter R. Boland, Louis Bissette; Gordon Myers; Corporation Counsel William F. Slawter; City Manager Neal Creighton; Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: None

INVOCATION

The invocation was given by Mayor McDevitt.

APPROVAL OF THE MINUTES - NOVEMBER 13, 1984

1. Approval of the minutes of the November 13, 1984 meeting.

Mayor McDevitt announced the approval of the minutes of the November 13, 1984 meeting with the exception of two corrections to be made as pointed out by Councilman Boland. On page 262, the date of "April 1, 1970" should be "April 1, 1960" and in the same paragraph, the phrase "he had chest pains in his arm" should say "chest and arm pains".

ORDINANCE NUMBER 1482 - AN ORDINANCE AMENDING APPENDIX A (ZONING) OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE

2. Consideration was given to the second reading of Ordinance 1482, an ordinance amending appendix A (zoning) of the Code of Ordinances of the City of Asheville.

Mayor McDevitt said this ordinance was previously read on first reading and would not be reread in its entirety unless there was a specific request to do so.

On a roll call vote of 7-0, Ordinance No. 1482 passed on second reading.

ORDINANCE NUMBER 1483 - AN ORDINANCE AMENDING ORDINANCE NO. 1027 REGARDING KENNEL LICENSE TAXES

3. Consideration was given to the second reading of Ordinance No. 1483 - an ordinance amending Ordinance No. 1027 regarding Kennel License Taxes.

Mayor McDevitt said this ordinance was previously read on first reading and would not be reread in its entirety unless there was a specific request to do so.

On a roll call of 7-0, Ordinance No. 1483 passed on second reading.

Mr. Cogburn said that in addition to Newsome and Higgins, the following officers were granted in-line-of-duty disability retirement by the Board of Examiners and Board of Trustees of the Policemen's Pension and Disability Fund.

1978	Date
J. W. Trulove	June 1, 1978
Joseph Letterman	September 1, 1978
Charles H. Rector	September 1, 1978
Donald E. Maney	December 1, 1978

1979	Date
Clarence F. Welborn	January 1, 1979
Loyd E. Roberts	January 1, 1979
Larry O. Plemmons	April 1, 1979
James J. Moulds	April 1, 1979

Upon inquiry of Mayor McDevitt, Attorney Cogburn said he has referred to this information for the benefit of City Council, because the retirements became effective during the time when new legislation was adopted by the General Assembly amending the definition of "disability in-line-of-duty".

Upon inquiry of Mayor McDevitt, Attorney Cogburn said it is his opinion that you cannot legislate new changes in the Pension Law after a person goes to work, and that the new law is not effective as to any policemen employed prior to April 20, 1979. He said this would be a violation of due process to those policemen.

Mayor McDevitt said that if Mr. Cobgurn had no objections, the City Council plans to move with dispatch on their review of all of the materials /exhibits and deliberations, and that he would be notified when a decision would be made. Mayor McDevitt said a decision could possibly be made at the November 27th meeting.

Attorney Cogburn said he had no objections to this procedure, that he agreed that it was of the upmost importance that members of Council had ample opportunity to review all of the documents and exhibits prior to rendering a decision in the matter.

RESOLUTION NO. 84-222 - RESOLUTION AUTHORIZING THE CITY MANAGER TO LEASE THAT SPACE IN THE CITY HALL BUILDING KNOWN AS THE CITY HALL SNACK SHOP

Consideration was given to Resolution No. 84-222 authorizing the City Manager to lease that space in the City Hall building known as the City Hall Snack Shop.

Mayor McDevitt read the resolution.

Upon motion of Councilman Boland, seconded by Councilman Price, Resolution No. 84-222 was unanimously adopted.

Councilman Bissette moved to schedule a public hearing relative to closing an unnamed alley between Asheland Avenue and Aston Street for December 18, 1984. This motion was seconded by Councilman Price and carried unanimously.

Complete text of Resolution No. 84-221 will be found in Resolution Book No. 15 at page ~~90~~ 96 ½

SCHEDULING PUBLIC HEARING - SITE PLAN OF THE PROPOSED CIMARRON CONDOMINIUMS

8. Councilman Price moved to schedule a public hearing relative to the site plan of the proposed Cimarron Condominiums for December 4, 1984.

This motion was seconded by Councilman Bissette and carried unanimously.

SCHEDULING PUBLIC HEARING - SITE PLAN OF PHASE III - MOTEL - RIVER RIDGE MARKET PLACE

9. Councilman Boland moved to schedule a public hearing relative to the site plan of Phase III - Motel - River Ridge Market Place for December 4, 1984.

This motion was seconded by Councilman Frank and carried unanimously.

CONTINUATION OF AN APPEAL HEARING IN THE MATTER OF MELVIN C. WALSH, JR.'S REQUEST FOR LINE-OF-DUTY DISABILITY RETIREMENT

10. Consideration was give to the continuation of an appeal hearing in the matter of Melvin C. Walsh, Jr.'s request for line-of-duty disability retirement.

Mayor McDevitt reopended the hearing at 4:33 p.m.

Mayor McDevitt confirmed with Corporation Counsel Bill Slawter and Attorney Max Cogburn they had been furnished with all materials that City Council had received relative to Mr. Walsh's appeal.

Upon inquiry of Mayor McDevitt, Attorney Max Cogburn said he had not received nor reviewed the minutes of the November 13, 1984 meeting.

Mayor McDevitt told Attorney Cogburn that after he reviewed the minutes, revisions or amendments to the minutes, as necessary, could be made even though he had approved the minutes of the meeting earlier in today's meeting.

Attorney Cogburn distributed a memorandum to City Council summarizing his arguments, which included pertinent legislation establishing and amending the Pension Fund for the Retirement and Disability of Police Officers of the City of Asheville and also the Supreme Court's decision in the Duckett Case. A copy of this memorandum is attached and incorporated as a part of these minutes.

Complete text of Resolution No. 84-222 will be found in Resolution Book No. 15 at page ~~91~~ 97

RESOLUTION NO. 84-223 - RESOLUTION AMENDING RESOLUTION NO. 84-133 BY AUTHORIZING THE MAYOR TO EXECUTE ON BEHALF OF THE CITY OF ASHEVILLE ANY CHANGE ORDERS WITHIN THE BUDGETED AMOUNT WITH HUNTLEY CONSTRUCTION COMPANY FOR THE PROJECT KNOWN AS TRINITY CHAPEL ROAD IMPROVEMENT PROJECT

Consideration was given to resolution No. 84-223, a resolution amending Resolution No. 84-133, by authorizing the Mayor to execute on behalf of the City of Asheville any change orders within the budgeted amount with Huntley Construction Company for the project known as Trinity Chapel Road improvement project.

Mayor McDevitt read the resolution. (Reso. Bk. 15, page ~~92~~ 98)

Upon motion of Councilman Boland, seconded by Councilman Frank, Resolution No. 84-223 was unanimously adopted.

CLAIMS - DAVID KING (WATER), SUSAN ISRAEL (PARKING GARAGE), ROSA CASE (SEWER), RONNIE BROCKWELL (STREETS), JAMES RIVERS (WATER), AND HARRY TAYLOR (WATER)

The City Clerk presented claims received from David King (Water), Susan Israel (Parking Garage), Rosa Case (Sewer), Ronnie Brockwell (Streets), James Rivers (Water), and Harry Taylor (Water).

Mayor McDevitt referred the claims to the Corporation Counsel for investigation and recommendation.

RALPH BISHOP

Ralph Bishop again addressed Council relative to his difficulty in obtaining City records relative to Police Pensions, and also about lottery sales in the City of Asheville.

ADJOURNMENT TO EXECUTIVE SESSION

Councilman Boland moved to adjourn to finish Pre-Council items and to go into Executive Session to discuss a legal and real estate matter. This motion was seconded by Councilman Bissette and carried unanimously.

Terry McDevitt
MAYOR

Marian F. Metcalf
CITY CLERK

CONTINUATION OF A PUBLIC HEARING RELATIVE TO THE ADOPTION OF AN ORDINANCE DIRECTING THE DIRECTOR OF INSPECTIONS TO DEMOLISH AND REMOVE THE APARTMENT HOUSE KNOWN AS 37 EAST CHESTNUT STREET, ASHEVILLE, N. C.

4. Consideration was given to the continuation of a public hearing relative to the adoption of an ordinance directing the Director of Inspections to demolish and remove the apartment house known as 37 East Chestnut Street, Asheville, N. C.

Mayor McDevitt reopened the public hearing at 4:17 p.m.

Mayor McDevitt said proceedings have heretofore been instituted in accordance with the provisions of N. C. General Statutes 160A-441 et seq. and the Housing Code of the City of Asheville. A hearing has been held and a Findings of Fact & Order entered finding that the apartment house known as 37 East Chestnut Street, in its present condition, is dilapidated, unfit for human habitation, unsafe and dangerous to life. This property is owned by Mrs. Elizabeth Gage. On August 28 this public hearing was continued for 90 days as work was being done on the house at that time.

Lem Moore, Director of Inspections, said that he had inspected the dwelling on 11/27/84 and at that time the only correction that had been made was the installation of 10-15 feet of sanitary sewer line in Apartment No. 4. He requested that Council proceed with the first reading of the Ordinance.

Upon inquiry of Councilman Price, Lem Moore said the apartments were vacant and the doors and windows had been secured. He said the Building Permit issued in August was valid for six (6) months.

Mayor McDevitt said that Council had received a request from Max Cogburn, Attorney for Mrs. Gage, that the public hearing be continued. However, he said there would be two other readings on the ordinance at which time Mr. Cogburn would have an opportunity to be heard.

Mayor McDevitt closed the public hearing at 4:20 p.m.

Mayor McDevitt pointed out a correction in the sixth (6th) "WHEREAS" of the ordinance changing the date shown from "August 28, 1984" to "November 27, 1984".

Councilman Price moved for the adoption of Ordinance No. 1486. This motion was seconded by Vice Mayor Bratton and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1486 passed on first reading.

Mayor McDevitt requested that the City Manager notify Mr. Cogburn of action taken today, and let him know that this matter will be on Council's agenda for second reading on December 4, 1984.

Tuesday, November 27, 1984 - 4:00 p.m.

Regular Meeting

Present: Mayor Larry McDevitt, Presiding; Vice-Mayor Wilhelmina Bratton; Councilmen Mary Lloyd Frank, Norma T. Price, Walter R. Boland, Louis Bissette; Gordon Myers; Corporation Counsel William F. Slawter; City Manager Neal Creighton; Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: None

INVOCATION

The invocation was given by Councilman Frank.

APPROVAL OF THE MINUTES - NOVEMBER 20, 1984

1. Approval of the minutes of the November 13, 1984 meeting.

Mayor McDevitt said that the minutes of November 13 and November 20, 1984 will be reviewed by Corporation Counsel relative to the Walsh hearing, and will be resubmitted for approval at the December 4, 1984 meeting.

PROCLAMATION - "EDUCATIONAL OPPORTUNITY DAY"

2. Mayor McDevitt read a proclamation proclaiming December 1 as "Educational Opportunity Day".

RESOLUTION NO. 84-224 - RESOLUTION OF APPRECIATION TO MR. AND MRS. JOHN SHORT, CITY HALL SNACK SHOP OPERATORS

3. Consideration was given to a resolution of appreciation to Mr. and Mrs. John Short, City Hall Snack Shop operators.

Mayor McDevitt read the resolution and presented it to Mr. and Mrs. John Short.

Upon motion of Councilman Price, seconded by Councilman Boland Resolution No. 84-224 was unanimously adopted.

Complete text of Resolution No. 84-224 will be found in Resolution Book 15 at page ~~93~~ 99 &.

PROCLAMATION - "HOME CARE WEEK"

3A. Mayor McDevitt read a proclamation proclaiming November 25 through December 1, 1984 as "Home Care Week".

Mayor McDevitt presented the proclamation to Joanie Ingle.

ORDINANCE NO. 1482 - AN ORDINANCE AMENDING THE ZONING ORDINANCE KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED RELATIVE TO KENNELS

8. Consideration was given to the third reading of Ordinance No. 1482, an ordinance amending the zoning ordinance known as "an ordinance providing for the zoning of the City of Asheville," as amended relative to kennels.

Mayor McDevitt said this ordinance was previously read on first and second reading and would not be reread in its entirety unless there was a specific request to do so.

On a roll call vote of 7-0, Ordinance No. 1482 passed on third and final reading.

Complete text of Ordinance No. 1482 will be found in Ordinance Book No. 10 at page ~~242.~~ 307

ORDINANCE NO. 1483 - AN ORDINANCE AMENDING ORDINANCE NO. 1027 REGARDING KENNEL LICENSE TAXES

9. Consideration was given to the third reading of Ordinance No. 1483 - an ordinance amending Ordinance No. 1027 regarding Kennel License Taxes.

Mayor McDevitt said this ordinance was previously read on first and second reading and would not be reread in its entirety unless there was a specific request to do so.

On a roll call vote of 7-0, Ordinance No. 1483 passed on third and final reading.

Complete text of Ordinance No. 1483 will be found in Ordinance Book No. 10 at page ~~245.~~ 308

ORDINANCE NO. 1442 - AN ORDINANCE ESTABLISHING A NEW CITY OF ASHEVILLE EROSION CONTROL ORDINANCE

10. Mayor McDevitt said since Council did not act on Ordinance No. 1442 for a period of 100 days, the action in passing the Ordinance on first reading becomes null and void.

ORDINANCE NO. 1487 - AN ORDINANCE TO PROVIDE FOR THE CONTROL OF SOIL EROSION AND SEDIMENTATION

10-A. Consideration was given to an ordinance to provide for the control of soil erosion and sedimentation.

Mayor McDevitt said consideration of a new ordinance is necessary because Council did not act for a period of 100 days on Ordinance No. 1442; therefore, the action in passing that Ordinance on first reading becomes null and void.

Mayor McDevitt said the Ordinance in its present state has been

RESOLUTION NO. 84-225 - RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A LEASE AGREEMENT WITH ASHEVILLE OIL COMPANY, INC., A NORTH CAROLINA CORPORATION, FOR THE PURPOSE OF LEASING LOT 362, WARD 1, SHEET 1, OF THE TAX MAPS OF BUNCOMBE COUNTY

5. Consideration was given to a resolution authorizing the Mayor to enter into a lease agreement with Asheville Oil Company, Inc., a North Carolina Corporation, for the purpose of leasing Lot 362, Ward 1, Sheet 1, of the tax maps of Buncombe County.

Mayor McDevitt said this would be a ten (10) year lease with a renewal term of five (5) years upon such terms as may be agreed upon at said time. He said this property is the triangle located on South Market Street and South Beaumont Street. He said that this property is needed by the City of Asheville for the purpose of providing community development, and the only cost to the City will be payment of City and County taxes.

Mayor McDevitt said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Frank, seconded by Councilman Bissette, Resolution No. 84-225 was unanimously adopted.

Complete text of Resolution No. 84-225 will be found in Resolution Book No. 15 at Page ~~94~~ 100.

RESOLUTION NO. 84-226 - RESOLUTION APPOINTING MEMBER TO THE ASHEVILLE AREA CIVIC CENTER COMMISSION

6. Consideration was given to a resolution appointing Fred Brown as a member to the Asheville Area Civic Center Commission.

Upon motion of Councilman Boland, seconded by Councilman Frank, Resolution No. 84-226 was unanimously adopted.

Complete text of Resolution No. 84-226 will be found in Resolution Book No. 15 at Page ~~96~~ 101.

BIDS - LOGGING RECORDER FOR THE POLICE DEPARTMENT

7. Consideration was given for a logging recorder for the Police Department.

Mayor McDevitt said only one (1) bid was received and funds for the recorder were properly budgeted.

Councilman Myers moved to award the bid to Dictaphone Corporation in the amount of $16,773.50. This motion was seconded by Councilman Price and carried unanimously.

3. Requirements of Specialized Professional, On and Off-Site Information:

Mayor McDevitt said the Ordinance does not specify that professional help is required. He said Mr. Tarrant has advised Council that the Ordinance is not so strict that it would necessarily require specialized professional help.

At Mayor McDevitt's request, Mr. Wiegman said he would be willing to sit down with Mr. Tarrant and write down his thoughts and concerns regarding this item.

4. City Simplifying Group Development Review Process; Placing Full Responsibility with Planning and Zoning (Proposed Ordinance Doing the Opposite):

Mayor McDevitt said the City is simplifying the process considerably from what it used to be. He said while the Group Development process goes through Planning and Zoning, this would have a process for staff review and then the next step would be directly to the City Council.

5. Appeals Process is a Killer:

Mayor McDevitt the process of going before the Review Committee is the only step in the appeals process not required by State Law.

6. Requirement of Formal Plan for Small Developments:

Mayor McDevitt said the intent of this was to address the cumulative effects of erosion problems caused by one small lot and developers acquiring Building Permits for one house at a time in order to circumvent the intent of the Ordinance.

Mayor McDevitt said that the other suggestions included in Mr. Wiegman's letter are excellent, and that Council intends to deal with storm water and impoundment problems in a separate ordinance. He said the State has specifically asked the City not to include these items in the Soil Erosion and Sedimentation Control Ordinance. He said such an ordinance is now being prepared, and that the City would send Mr. Wiegman a copy of it.

Mr. Wiegman still expressed concern that the Ordinance would require a professional to prepare soil erosion plans.

Mr. Taylor Currin, State Erosion Engineer with the N. C. Department of Natural Resources and Community Development, agreed with Tom Tarrant that the Ordinance would not require a professional and that the Ordinance had been worded to the bare minimum the State would approve.

Councilman Price said that Mr. Currin had suggested that Council might consider naming a responsible individual to assess penalities rather than City Council making this decision. However, she said Council had not had time to review this suggestion, but perhaps a change could be made at a later meeting.

substantially revised from that which was originally being considered. He said copies of the revised Ordinance had been distributed to members of City Council, as well as to certain members of the public who had requested it or who had expressed an interest in it.

Mayor McDevitt called for remarks from the public on the revised Ordinance.

Mr. Jan Wiegman, Architect, said while it appears in principle that the Council is trying to simplify the process of developments, the ordinance will complicate the process. He said he doesn't understand why this matter cannot be handled in the Group Development process in the preliminary stages. He said the Ordinance directs itself to creating an adversary relationship among the public, the developers and the City.

Mr. Wiegman also said he couldn't understand why there has to be an overlap between the City and State governments in enforcement. He said this would affect timing and costs to the developer and also to the City. He said this would be very discouraging to developers in trying to develop anything within the City Limits.

Mayor McDevitt summarized the Council's Pre-Council discussions with reference to the points raised in Mr. Wiegman's letter as follows:

1. Multiple reviews by State and Local Personnel:

Mayor McDevitt said the City's feel there will not be multiple reviews, and it is the intent of the City to avoid that in this ordinance. The only State review that would be done would be on seeding specifications; the rest would be done locally.

Councilman Price said that the State will occasionally inspect how the City is enforcing the ordinance and not on the project itself, unless the project comes under the State for other review.

2-A. Informal Review and Coordination in Early Planning Stages:

Mayor McDevitt said the City hopes to provide that service, and reaffirmed the City's policy to meet with any and all developers or builders at any time to discuss their plans and respond to them at that time. Mayor McDevitt said the City would prefer this being done as early in the process as possible, and that City staff would be instructed to make themselves available to confer and meet with developers at the earliest possible time that the developer wants to meet to iron out any problems.

2-B. City Withholding Official Approval Until Building Permit Time as a Safeguard:

Mayor McDevitt said the City tried to write this into the Ordinance, but the State said it could not be done and they would not approve it.

Councilman Bissette said that he is very pleased with the changes made to the parking deck.

Vice Mayor Bratton said this project was started a long time ago with just a dream and that a lot of hard work and energy had gone into the project by the Mayor, Members of City Council, staff, Mrs. Schneider, and the City as a whole. She said while the project will help Asheville as a total community, the Eagle Street section highlights a demonstrated effort on part of the Asheville City Council in terms of how they feel about the minority community, especially as it relates to minority businesses. She commended and thanked her fellow councilmen for their efforts on behalf of the minority community.

Councilman Price said this was not ony a wonderful opportunity to do something for the community, but also an opportunity to maintain the buildings in the area, some of which are on their last leg.

Mayor McDevitt closed the public hearing at 5:32 P.M.

Vice Mayor Bratton moved to approve the concept of the site plan, as displayed, and also to approve the site plan with reference to those properties, owned by or under contract or option to the developers or the Asheville Housing Authority. This motion was seconded by Councilman Bissette and carried unanimously.

CLAIMS - THOMAS RIVENS (INSPECTIONS), C. J. HUNTER, JR. (PARKS & REC.)

The City Clerk presented claims received from Thomas Rivens (Inspections) and C. J. Hunter, Jr. (Parks & Rec.).

Mayor McDevitt referred the claims to the Corporation Counsel for investigation and recommendation.

STATEMENT BY MAYOR McDEVITT - STATUS OF WALL STREET PROJECT

Mayor McDevitt read the following statement:

"Since receiving work from HUD that the Wall Street/Haywood Street UDAG Application was not approved, the City has continued to pursue discussions with the developer, Southeastern Historic Properties, in an effort to maintain development plans for the Wall Street/Haywood Street area. While the developer has indicated an interest in developing the Haywood and Starnes Buildings on Haywood Street into apartments, they have also indicated an interest in transferring the retail segment of the Wall Street Project to another developer which the City could select. The City has submitted inquiry letters to additional developers to determine their interest in all or part of the project. Initial response has been good and the City hopes to begin negotiations with new potential developers in December. HUD has offered the City the opportunity to have the application "rolled over" to the next round; however, the Council has elected not to ask that the project be rolled over or reconsidered.

Mayor McDevitt said there are no plans to split the development, and the City would be willing to consider both large and small proposals.

Councilman Bissette said that Tom Tarrant, City Engineering Coordinator, should be commended for the months he has spent working on the Ordinance. He said he felt Mr. Tarrant had reduced the Ordinance to the simplest Ordinance we can have and still get State approval.

Councilman Price moved for adoption of Ordinance No. 1487. This motion was seconded by Vice Mayor Bratton and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1487 passed on first reading.

Mayor McDevitt announced that this Ordinance is scheduled for further hearing and possible second and third readings at next week's meeting.

Mayor McDevitt said he would appreciate Mr. Wiegman meeting with Tom Tarrant on any other suggestions he might have on the Ordinance.

PUBLIC HEARING - RELATIVE TO SITE PLAN OF THE PROPOSED PACK PLAZA REDEVELOPMENT PROJECT

11. A public hearing was held relative to the site plan of the proposed Pack Plaza Redevelopment Project.

Mayor McDevitt opened the public hearing at 5:07 P.M.

The City Clerk presented the notice to the public and the affidavit of publication.

Verl Emrick, Director of Planning, said the conceptual plan has been taken before three major bodies responsible for various aspects of planning and development in the City of Asheville, those being the Planning and Zoning Commission, the Downtown Commission, and the Asheville-Buncombe Historic Resources Commission. He said all of these groups are in accord and recommend approval of the project to the City Council.

Mr. Emrick read a resolution adopted by the Asheville-Buncombe Historic Resources Commission supporting the project.

Mrs. Estelle Schneider, Vice President of Schneider Nine, Inc., introduced James F. Meredith, Architect for the project.

Mr. Meredith, by use of artists sketche panels, detailed the specific plans for renovation and new construction in the area. He said in additrion to renovations to the Jackson Building, restoration to the window frames and exteriors of the Westall, Commerce, and Legal Buildings will be done and that corridors will connect the buildings at the upper floors and along existing alleys at ground floors. He said a new 4-story office building will be constructed on Biltmore Avenue, a new parking deck will be constructed to front Eagle Street, and that courtyards and a sculpture garden are planned for the area between South Pack Square and Eagle Street.

Mr. Meredit answered questions from members of Council and the public.

Tuesday, December 4, 1984 - 4:00 p.m.

Regular Meeting

Present: Mayor Larry McDevitt, Presiding; Vice-Mayor Wilhelmina Bratton; Councilmen Mary Lloyd Frank, Norma T. Price, Walter R. Boland, Louis Bissette; Gordon Myers; Corporation Counsel William F. Slawter; City Manager Neal Creighton; Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: None

INVOCATION

The invocation was given by Mayor McDevitt.

APPROVAL OF THE MINUTES - NOVEMBER 13 AND NOVEMBER 20, 1984

1. Approval of the minutes of the November 13, 1984, and November 20, 1984, meetings.

Mayor McDevitt announced that due to some proposed changes in the November 13 and November 20 Meetings, the approval of these minutes would be postponed.

APPROVAL OF THE MINUTES - NOVEMBER 27, 1984

2. Approval of the minutes of the November 27, 1984 meeting.

Dr. Boland requested the following corrections in the minutes:

(A) Page 277, Third Paragraph, Last Line - Change "adversity between" to "an adversary relationship among".

(B) Page 274, Sixth Paragraph, Last Line - Change "were" to "was".

Mayor McDevitt announced the approval of the minutes of the November 27, 1984, meeting as amended by Dr. Boland.

MELVIN C. WALSH, III - DECISION BY CITY COUNCIL ON APPEAL BY MR. WALSH FOR LINE-OF-DUTY DISABILITY RETIREMENT

3. Consideration was given to a decision by City Council relative to the appeal of Melvin C. Walsh, III, regarding his request for line-of-duty disability retirement.

Mayor McDevitt announced that Max Cogburn, Attorney for Mr. Walsh, had to be out of town today, and that Mr. Cogburn had requested that Council's decision be postponed until he could present.

RESOLUTION NO. 84-227 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A TEMPORARY EASEMENT GRANTED BY ALICE R. WICKER AND KENNETH PAUL ROBERTS ACROSS A PRIVATE DRIVEWAY CONNECTING SEVIER STREET TO BARNARD AVENUE

Consideration was given to a resolution authorizing the Mayor to execute a temporary easement granted by Alice R. Wicker and Kenneth Paul Roberts across a private driveway connecting Sevier Street to Barnard Avenue.

Mayor McDevitt read the resolution, and said this easement is necessary in order to repair a drainage culvert on Sevier Street which is about to collapse.

Upon motion of Councilman Frank, seconded by Councilman Price, Resolution No. 84-227 was unanimously adopted.

Complete text of Resolution No. 84-227 will be found in Resolution Book 15 at page ~~97~~ 102.

CITY MANAGER - REMINDER OF THURSDAY NIGHT WORK SESSION

The City Manager reminded Council of the Thursday night work session relative to the Sign Ordinance, which would begin at 5:30 p.m.

RALPH BISHOP - CITY RECORDS

Ralph Bishop again addressed Council relative to his inability to obtain City records regarding the disability retirement of J. C. Hall.

Mayor McDevitt requested that Corporation Counsel obtain a copy of the minutes for Mr. Bishop.

ADJOURNMENT TO EXECUTIVE SESSION

Councilman Price moved to adjourn to executive session, and then for adjournment. This motion was seconded by Councilman Frank and carried unanimously. The meeting concluded at 7:00 p.m.

Larry McDevitt
MAYOR

William F. Polcari
CITY CLERK

Mr. Emrick said at the Planning and Zoning Commission Meeting, concern was expressed over the dusty conditions on the Edgewood Road. However, after discussing the paving schedule with the Department of Public Works, he was advised that the street is on the current list for paving possibly in the early spring of 1985, and that the paving should be completed before construction of the condominiums begins.

Dr. Boland asked if something could be done to control the dust problem until the street could be paved.

Mr. Neal Wolfe, 1591 Sweeten Creek Road, addressed Council about his concern of the 16-inch terra cotta drain line from the Phillips Reservoir.

Mayor McDevitt said the Developer is going to locate the pipe and if the road does, in fact, go over the pipe, the Developer will replace the terra cotta pipe with cast iron pipe or some other appropriate type pipe to alleviate the problem.

Councilman Price inquired whether or not the City had easements on the property in question. Mayor McDevitt said the Developer agrees to grant to the City proper easements needed for maintenance of water lines and other drains.

Mayor McDevitt closed the public hearing at 4:36 P.M.

Councilman Price made a motion to approve the concept of the site plan in total and the first phase of construction with subsequent phases of construction being brought back before Council for approval after financing had been confirmed. Further, that the Developer comply with Erosion Control requirements. This motion was seconded by Councilman Boland and carried unanimously.

Councilman Price requested that the staff report to the City Council the status on the expected date of paving Edgewood Road, and that Mayor McDevitt forward this information to Mr. and Mrs. Lanning and Mr. Wolfe in a letter.

PUBLIC HEARING - SITE PLAN OF PHASE III - MOTEL - RIVER RIDGE MARKET PLACE

6. A public hearing was held relative to the site plan of Phase III - Motel - River Ridge Market Place.

Vice Mayor Bratton said the Asheville Planning and Zoning Commission at a metting held on November 7, 1984, reviewed the site plan of Phase III - Motel - River Ridge Market Place to be located on U. S. 74 and I-240. He said the plan had been prepared by Spaceplan, Architect, for Bob Hughes and Associates, Inc., Raleigh, N.C., Developer, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. She said after review and discussion by the Planning and Zoning Commission, they recommend approval of the site plan to City Council subject to compliance with the Erosion Control Ordinance. She said the Planning and Zoning Commission also recommend that proposed signage be submitted to City Council with the Group Development Review.

INVITATION - PACK PLAZA PROJECT GROUNDBREAKING - BECKY WILLIAMS

4. Mayor McDevitt recognized Becky Williams, who distributed personal invitations to Members of City Council, the City Manager, and their spouses to attend the Groundbreaking Ceremonies for the Pack Plaza Project. She said the Ceremonies would be held on Pack Square on December 12, 1984, at 4:00 P.M. She said in lieu of actually "breaking ground" since there is no ground to break, there would be a "ribbon cutting" to get the festivities underway.

PUBLIC HEARING - SITE PLAN OF PROPOSED CIMARRON CONDOMINIUMS

5. A public hearing was held relative to the site plan of the proposed cimarron condominiums.

Mayor McDevitt opened the public hearing at 4:10 P.M.

The City Clerk presented that notice to the public and the affidavit of publication.

Verl Emrick, Director of Planning, said the Asheville Planning and Zoning Commission at a meeting held on November 7, 1984, reviewed the site plan of the proposed Cimarron Condominiums to be located on Sweeten Creek Road. He said the plan had been prepared by Butler Associates, Engineer, for Condominium Builders, Inc. of Winston-Salem, N.C., the Developer, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. He said after review and discussion by the Planning and Zoning Commission, they recommend approval of the site plan to City Council subject to indicating construction phases on their plans and compliance with the Erosion Control Ordinance. Also, he said this project had received clearance relative to water and sewer availability and other necessary approval from other City Departments with the exception of Erosion Control. He said the North Carolina Department of Transportation will study plans for additional signage in the area.

Mr. Emrick requested that City Council approve the site plan in concept and approve the first phase of construction and that subsequent phases be brought back before Council after financing has been confirmed. He said Council's motion should also include a stipulation of meeting requirements of Erosion Control.

Ralph Kiger, Developer, answered questions from members of City Council relative to construction of the project.

Upon request of Mayor McDevitt, Mr. Kiger drew new lines on the plan to show the First Phase of construction.

Mr. Ken Lanning, property owner adjacent to the project, requested that Edgewood Road be put on the priority list for paving, due to the extreme dusty conditions.

Vice Mayor Bratton said the present ordinance does not comply with State requirements, and this ordinance will allow for the those requirements. She said a public hearing was held and this ordinance passed on first reading on May 22, 1984, and at the June 5, 1984, meeting, the second reading of the ordinance was postponed to allow for a work session on August 28, 1984. She said this since Council failed to act on that Ordinance for a period of 100 days, the action in passing that Ordinance on first reading became null and void. She said a new revised Ordinance was passed by Council on first reading at the meeting on November 27, 1984.

Tom Tarrant said he had tried to "clean up" the typos and to include considerations recommended by the State. He read the following revisions as a result of those efforts:

1. Page 3, Section "3q": Eliminate the definition for the "One Hundred Year Storm" due to the fact that the term is no longer used in the Ordinance.

2. Page 4, Section "3x": Insert the word "Formal" in the next to the last sentence ahead of "erosion control plan" in order to clarify which plan.

3. Page 11, Section "14a": Change uppercase "O" to lower case "o" in the word Ordinance.

4. Page 11, Section "14b": Change phrase "Authority to serving the notice" to word "City".

5. Page 12, Section "14c": Correct spelling of word "Submittal".

6. Page 12, Section "16a.1": "15b" should read "16b".

7. Page 12, Section "16a.2": "of" should read "or" and "15b" should read "16b".

8. Page 14, Section "17d": Add "and (f)" after "(b)" in the last sentence.

9. Page 16, Section "19f": Second sentence - delete the redundant word "plan".

10. Page 18, Section "22.a2": To read "The City's Erosion Control Plan Review Committee shall determine the amount of the civil penalty to be assessed under this Subsection and shall make written demand for payment upon the person in violation, and shall set forth in detail a description of the violation for which the penalty has been imposed. In determining the amount of the penalty the City's Erosion Control Plan Review committee shall consider the degree and extent of harm caused by the violation and the cost of rectifying the damage. If payment is not received or equitable settlement reached within sixty (60) days after demand for payment is made, the matter shall be referred to the City Attorney for institution of a civil action in the

Mayor McDevitt opened the public hearing at 4:40 P.M.

The City Clerk presented that notice to the public and the affidavit of publication.

Verl Emrick, Director of Planning, said that the Motel Development is the Third Phase of the River Ridge Market Place Complex located at the intersection of U. S. 74 and I-240. He said the project contained four buildings initially, with a fifth building anticipated, bringing the total count of the project to approximately 164 units (41 units per building). He said the project has been reviewed and approved by all the appropriate departments with the exception of final approval of the Erosion Control Plans. He said water and sewer services are available for the project.

Mayor McDevitt excused himself from the meeting at 4:45 P.M., and turned over the meeting to Vice Mayor Bratton.

With regard to proposed signage, Mr. Emrick said the major sign will be 208 square feet sign, 154 square foot per phase, which will be a free-standing sign to be located at some point at the intersection or closer to the facility, and the second sign (#39) will be a 27 square foot, identification-type sign to go at the entrance of the drive. He said there will be various other directional "entry/exit" signs, none of which will exceed the specifications of the Sign Ordinance.

Upon inquiry of Councilman Price, Mr. Emrick said the Comfort Inn will be the chain operating the motel.

Upon inquiry of Councilman Frank, Mr. Emrick said there is another access to the facility in the rear, but the rear access will be for service vehicles only.

Upon inquiry of Council, Carroll Hughes of Spaceplan said if the restaurant goes into the development, it will be attached and will be an actual part of the motel; however, he said, it would be a small facility. He said if the restaurant is not constructed, patrons of the motel will be referred to the cafeteria at River Ridge as much as possible.

Vice Mayor Bratton closed the public hearing at 4:49 P.M.

Councilman Bissette made a motion to approve the site plan with the stipulation that the Developer comply with Erosion Control reguations. This motion was seconded by Councilman Boland and carried unanimously.

ORDINANCE NO. 1487 - AN ORDINANCE TO PROVIDE FOR THE CONTROL OF SOIL EROSION AND SEDIMENTATION

7. Consideration was given to the second reading of Ordinance No. 1487, an ordinance to provide for the control of Soil Erosion and Sedimentation.

ORDINANCE NO. 1486 - AN ORDINANCE DIRECTING THE DIRECTOR OF INSPECTIONS TO DEMOLISH AND REMOVE THE APARTMENT HOUSE KNOWN AS 37 EAST CHESTNUT STREET, ASHEVILLE, N. C.

8. Consideration was given to the second reading of Ordinance No. 1486, an ordinance directing the Director of Inspections to demolish and remove the apartment house known as 37 East Chestnut Street, Asheville, N. C.

Mayor McDevitt said this ordinance was previouly read on first reading and would not be reread unless there was a specific request to do so.

Mayor McDevitt said although Max Cogburn had requested that the public hearing and first reading be postponed at the November 27 meeting, the Council proceeded because they felt ample notice had been given and there would be two other opportunities for Mr. Cogburn to be heard.

Mr. Graham said that he was representing Mrs. Gage today due to Mr. Cogburn being out of town. He said Mrs. Gage has hired another contractor, Bill Jones, to perform the necessary work on the house at 37 E. Chestnut Street. However, he said, Mr. Jones is completing work on another property owned by Mrs. Gage, and will be working on the house at 37 E. Chestnut Street in the next 30 days. Mr. Graham requested that Council grant an 30-day extension to permit work on the house by Mr. Jones.

Upon inquiry of Council, Lem Moore said no work has been done, no permits have been applied for, and no permits have been issued for 37 E. Chestnut Street. Mr. Moore said he felt the City Council and the City Staff have tried to cooperate and afford Mrs. Gage with every opportunity to do the work required on her properties in every respect. He requested that Council proceed with the second reading of the Ordinance.

Corporation Counsel Bill Slawter and Mr. Moore answered questions from members of City Council regarding the status of work at 22 Normandy Road.

The request for a 30-day extension made by Mr. Graham to City Council failed for the lack of a motion.

On a roll call vote of 7-0, Ordinance No. 1486 passed on second reading.

RESOLUTION NO. 84-228 - RESOLUTION FOR PARTICIPATION IN THE NORTH CAROLINA HOUSING FINANCE AGENCY HOME IMPROVEMENT LOAN PROGRAM

9. Consideration was given to a resolution for participation in the North Carolina Housing Finance Agency Home Improvement Loan Program.

Mayor McDevitt read the revisions that had been made in the resolution during the Pre-Council Work Session.

Upon motion of Councilman Boland, seconded by Councilman Frank, Resolution No. 84-228 was unanimously adopted.

name of the City, in the appropriate division of the General Courts of Justice for recovery of the penalty. Any sums recovered shall be used to carry out the purposes and requirements of this ordinance."

11. Page 19, Section "23a": Change "governing body" to "City" in the first sentence.

12. Page 20: Change "Resolution" to "Ordinance".

Mayor McDevitt returned to the meeting at 5:00 P.M., and presided over the rest of the meeting.

Danie Johnson, John Broadbrooks, Carroll Hughes, and J. Bertram King voiced their concerns relative to various requirements of the ordinance.

Upon inquiry of Councilman Bissette, Mr. Tarrant said he had lived in a place where plans were submitted to and permits issued from one office; and, in turn, the plans were routed to other agencies for approvals. He said this kind of an arrangement would facilitate our operation.

Councilman Boland said at the Developers Conference last Spring, it had been recommended that all the plans go through the Planning Office with the Planning Director having the ultimate responsibility for clearance from other departments.

As a result of the discussion among Council Members, Mr. Hughes, Mr. Broadbrooks, Mr. King, and Mr. Johnson, Tom Tarrant was instructed by Council to make the following revisions to the Ordinance prior to next week's final reading:

1. Section "3c": Add a period (.) after the word "amendments" and delete the rest of the sentence.

2. Section "3ee": At the end of this subsection, add the following sentence "This Manual is to be approved by the City Manager or his designee".

3. Section "17b": After the word "City" in the sixth line, add "or may submit documentation to substantiate the validity of the design".

Councilman Price moved to adopt the revision to the Ordinance, as read by Mr. Tarrant. This motion was seconded by Councilman Frank and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1487 passed on second reading, as amended.

CLAIMS - FRANK SNYDER (STREET DIVISION)

The City Clerk presented a claim received from Frank Snyder (Street Division).

Mayor McDevitt referred the claim to Corporation Counsel for investigation and recommendation.

LAWSUITS - LOCKIE WORLEY (PROPERTY DAMAGE), DAVID AND RACHEL MILLER (PROPERTY DAMAGE), AND D.O.T. VS. FERENCE, COUNTY, AND CITY (CONDEMNATION OF PROPERTY)

The City Clerk said the City was served with summonses in connection with lawsuits involving Lockie Worley (property damage), David and Rachel Miller (property damage) and D.O.T. vs. Ference, County, and City (eminent domain condemnation of property).

Mayor McDevitt referred the lawsuits to the Corporation Counsel for investigation and recommendation.

ANNOUNCEMENT - MAYOR McDEVITT - INVITATION TO WESTERN CAROLINA CENTRAL LABOR COUNCIL

Mayor McDevitt read an invitation from Mr. Ray Stepp inviting Council and Mr. Creighton, along with spouses, to the Western Carolina Central Labor Council Social Hour and Dance on Saturday, December 8, 1984, at 8:00 P.M.

ANNOUNCEMENT/APPOINTMENT BY MAYOR McDEVITT - NORMA PRICE/MEMBER TO COMMUNITY ARTS COUNCIL STEERING COMMITTEE - MARY LLOYD FRANK/ALTERNATE

Mayor McDevitt said the Community Arts Council of WNC has received $20,000 from the State General Assembly to initiate a Cultural Center Feasibility and Facilities Study for downtown Asheville.

The purpose of this study is to determine:

- The community's interest in and need for a Cultural Center
- Organizations to be housed in Center
- The cost of and sources of capital funds for facility renovation
- Ownership of the Center
- On-going operation and maintenance costs

The Community Arts Council of Western North Carolina has formed a steering committee and is asking each of the following organizations to appoint one representative.

Asheville Area Chamber of Commerce
Asheville City Council
Asheville Jaycees
Buncombe County Commissioners
Community Arts Council of WNC
Community Foundation of WNC
Downtown Commission
Junior League of Asheville

Mayor McDevitt asked Councilman Norma Price to serve on this committee and asked Councilman Mary Lloyd Frank to serve as an alternate.

Complete text of Resolution No. 84-228 will be found in Resolution Book 15 at page ~~98~~ 103 & 104

RESOLUTION NO. 84-229 - RESOLUTION ACCEPTING A PORTION OF SCHOOL ROAD INTO THE CITY STREET SYSTEM

10. Consideration was given to a resolution accepting a portion of School Road into the City Street System.

Mayor McDevitt said copies of this resolution were previously distributed to members of City Council and the resolution would not be read unless there was a specific request to do so.

Upon motion of Councilman Frank, seconded by Councilman Price, Resolution No. 84-229 was unanimously adopted.

Complete text of Resolution No. 84-229 will be found in Resolution Book No. 15 at page ~~99~~ 105

RESOLUTION NO. 84-230 - RESOLUTION AUTHORIZING THE MAYOR ON BEHALF OF THE CITY OF ASHEVILLE TO EXECUTE AN AGREEMENT BY AND BETWEEN THE CITY OF ASHEVILLE AND THE COUNTY OF BUNCOMBE FOR DISTRIBUTION OF LOAN REPAYMENT PROCEEDS FOR THE PACK PLAZA REDEVELOPMENT PROJECT

11. Consideration was given to a resolution authorizing the Mayor on behalf of the City of Asheville to execute an agreement by and between the City of Asheville and the County of Buncombe for distribution of loan repayment proceeds for the Pack Plaza Redevelopment Project.

Mayor McDevitt said copies of the resolution had previously been distributed to members of City Council, and the resolution would not be read unless there was a specific request to do so.

Upon motion of Councilman Frank, seconded by Councilman Boland, Resolution No. 84-230 was unanimously adopted.

Complete text of Resolution No. 84-230 will be found in Resolution Book No. 15 at page ~~100~~ 106

RESOLUTION NO. 84-231 - RESOLUTION APPOINTING A MEMBER TO THE ASHEVILLE-BUNCOMBE HISTORIC RESOURCES COMMISSION

12. Consideration was given to a resolution appointing Jack Westall as a member to the Asheville-Buncombe Historic Resources Commission.

Mayor McDevitt said copies of the resolution had previously been distributed to members of City Council, and the resolution would not be read unless there was a specific request to do so.

Upon motion of Councilman Bissette, seconded by Councilman Frank, Resolution No. 84-231 was unanimously adopted.

Complete text of Resolution No. 84-231 will be found in Resolution Book No. 15 at Page ~~101~~ 107

Tuesday, December 11, 1984 - 4:00 p.m.

Regular Meeting

Present: Mayor Larry McDevitt, Presiding; Vice-Mayor Wilhelmina Bratton; Councilmen Mary Lloyd Frank, Norma T. Price, Walter R. Boland, Louis Bissette; Gordon Myers; Corporation Counsel William F. Slawter; City Manager Neal Creighton; Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: None

INVOCATION

The invocation was given by Councilman Boland.

APPROVAL OF THE MINUTES - DECEMBER 4, 1984

1. Approval of the minutes of the December 4, 1984 meeting.

Mayor McDevitt noted a correction to be made on Page 2 in the spelling of "Cimarron".

Mayor McDevitt announced the approval of the minutes of the December 4, 1984, meeting with the change noted.

RESOLUTION NO. 84-232 - RESOLUTION ENDORSING THE UNITED STATES CONGRESS IN THEIR EFFORTS TO HALT THE PERSECUTION OF THE BAHA'I IN IRAN

2. Consideration was given to a resolution endorsing the United States Congress in their efforts to halt the persecution of the Baha'i in Iran.

Mayor McDevitt summarized the contents of the Resolution.

Upon motion of Councilman Frank, seconded by Vice Mayor Bratton, Resolution No. 84-232 was unanimously adopted.

Complete text of Resolution No. 84-232 will be found in Resolution Book No. 15 at page ~~102~~ 103 9C

APPROVAL OF THE MINUTES - NOVEMBER 13, 1984

3. Approval of the minutes of the November 13, 1984.

Upon inquiry of Mayor McDevitt, Attorney Max Cogburn said he had reviewed the minutes of November 13, 1984, and the amendments proposed by Corporation Counsel Bill Slawter. Mr. Cogburn said there was one minor change he thought should be made, which he had pointed out to Bill Slawter for inclusion with his amendments.

Mayor McDevitt said he had discussed this with the City Manager, and said he would like for Councilmen Price and Frank to keep Marvin Vierra involved and informed with the work of the Committee.

Mayor McDevitt said he would write Nancy Betty, President of the Community Arts Council of Western North Carolina and inform her of his decision.

MAYOR McDEVITT - REMINDER OF THURSDAY NIGHT WORK SESSION

Mayor McDevitt reminded Council of the Thursday night work session to begin at 5:30 P.M.

ADJOURNMENT

Upon motion of Councilman Frank, seconded by Councilman Boland, the meeting adjourned at 6:15 P.M.

Larry McDevitt
MAYOR

William F. Holcombe
CITY CLERK

11. Add the following new sentences at the end of the last paragraph on page 263: "Dr. Byron further stated that Mr. Walsh had some natural vulnerability to stress and would encounter stress in jobs other than law enforcement work."

12. Additional amendment made at the request of Mr. Cogburn on line 38 of page 263 amended the word "ability" to read "inability."

Councilman Frank moved to amend the minutes of the November 13, 1984, meeting as read by Corporation Counsel. This motion was seconded by Councilman Price and carried unanimously.

APPROVAL OF THE MINUTES - NOVEMBER 20, 1984

4. Approval of the minutes of the November 20, 1984.

Upon inquiry of Mayor McDevitt, Corporation Counsel Bill Slawter and Attorney Max Cogburn said they had no amendments to offer to the minutes of the November 20, 1984, meeting.

Mayor McDevitt announced the approval of the minutes of the November 20, 1984, meeting as distributed.

MELVIN C. WALSH, III - DECISION BY CITY COUNCIL ON APPEAL BY MR. WALSH FOR LINE OF-DUTY DISABILITY RETIREMENT

5. Consideration was given to a decision by City Council relative to the appeal of Melvin C. Walsh, III, regarding his request for line-of-duty disability retirement.

Councilman Frank moved to deny the request of Melvin C. Walsh, III for line-of-duty disability retirement based on the following findings of fact:

1. Mr. Walsh was employed by the Asheville Police Department from April 1, 1960 through October 5, 1983.

2. On October 5, 1983, Mr. Walsh was working the evening shift from 5:00 p.m. until 1:00 a.m.

3. Mr. Walsh's work during the evening of October 5, 1983, primarily consisted of making investigative telephone calls from the Asheville Police Department.

4. Mr. Walsh did not undergo any extensive or unusual physical exertion in his work during the evening of October 5, 1983.

5. Mr. Walsh had been working on a case for several weeks involving an elderly couple being taken advantage of by a young couple. This incident caused Mr. Walsh stress due to his inability to resolve the matter favorably for the elderly couple.

Corporation Counsel Bill Slawter read the following amendments to the minutes of the November 13, 1984, meeting:

1. Line 5 of page 262 amend "Admission H & P" to read "admission history and physical".

2. Lines 13 and 14 of page 262 delete the words "identified as W-22".

3. Amend "1960" on line 27 of page 262 to read "1970".

4. Insert after the phrase "a.m." on line 30 of page 262 the following new sentence: "Mr. Walsh stated that during the evening of October 5, 1983, his work primarily consisted of making investigative telephone calls from the Asheville Police Department."

5. Amend the sentence beginning on line 31 of page 262 to read as follows: "He said earlier in the evening he had pain in his arm and chest and didn't feel right."

6. Insert after the sentence ending with the word "days" on line 38 of page 262 the following new sentence: "Mr. Walsh stated that Dr. Fowler diagnosed him as having had a heart attack."

7. Insert the following new sentence following the sentence ending on line 4 of page 263: "Mr. Walsh stated that he did not undergo any extensive or unusual physical exertion in his work during the evening of October 5, 1983."

8. Insert the following new sentence at the end of the sentence ending on line 8 of page 263: "He stated that this incident caused him stress due to his inability to resolve the matter favorably for the elderly couple."

9. Amend the sentence beginning on line 12 of page 263 to read as follows: "In summary, upon questioning by Mr. Cogburn, Mr. Robinson said he was working with Mr. Walsh on the night of October 5, 1983, but was not with Mr. Walsh for the entire evening."

10. Add the following new sentence at the end of the paragraph ending on line 39 of page 263: "Dr. Byron further stated that the condition of 'arteriosclerotic heart disease' as diagnosed by Dr. Fowler was a condition which developed over a period of time and did not suddenly occur on October 5 or 6, 1983, and that this condition was a contributing factor to the heart attack sustained by Mr. Walsh on October 5 or 6."

20. Although Mr. Walsh was never treated for high blood pressure, the infirmary records at the City of Asheville Infirmary indicate that Mr. Walsh had elevated blood pressure upon examination at the infirmary on several occasions beginning in 1976.

21. Dr. Fowler has further diagnosed Mr. Walsh as having "arteriosclerotic heart disease." This condition is one which has developed over a period of time and did not suddenly occur on October 5 or 6, 1983. This condition was a contributing factor to the heart attack sustained by Mr. Walsh on October 5 or 6.

22. The heart attack sustained by Mr. Walsh on October 5 or October 6, 1983, does not constitute "an accident occurring while in the actual performance of duty . . . at some definite time and place" as required by Section 9 (A) of the Policemen's Pension Fund Law (Chapter 429, 1979 Session Laws).

23. Even it were conceded that the heart attack sustained by Mr. Walsh was "an accident" as required by Section 9 (A), Mr. Walsh's disability is not the "natural and proximate result" of the heart attack per se.

Councilman Frank's motion to deny the appeal of Melvin C. Walsh, III for line-of-duty disability retirement was seconded by Councilman Price and carried unanimously.

Mayor McDevitt requested that the minutes reflect that Councilman Myers was not present at the meeting and did not participate in the consideration of this matter.

Upon a request from Attorney Cogburn, Mayor McDevitt said he would be furnished with a copy of the findings of fact and a copy of minutes for December 11, 1984.

Attorney Cogburn pointed out there was a $9.00 mathematical error in the calculations determining Mr. Walsh's retirement benefits. Mayor McDevitt requested that Mr. Cogburn discuss this with the Corporation Counsel to determine whether the correction noted should be made by the Council or if it was just an administrative matter that could be handled by staff.

PUBLIC HEARING - CLOSING PORTION OF ALTA AVENUE

RESOLUTION NO. 84-233 - RESOLUTION TO CLOSE A PORTION OF ALTA AVENUE BETWEEN RIDGE STREET AND VISTA STREET IN THE CITY OF ASHEVILLE, NORTH CAROLINA

6. A public hearing was held on the question of closing a portion of Alta Avenue between Ridge Street and Vista Street in the City of Asheville, North Carolina.

6. Officer Ross Robinson was working the same shift the evening of October 5, 1983, but was not with Mr. Walsh for the entire evening.

7. During the early evening of October 5, 1983, Mr. Walsh began having chest and arm pains.

8. Shortly before Midnight on October 5, 1983, Mr. Walsh went to a motel on Merrimon Avenue to join Officer Robinson who was investigating a rape case.

9. When Mr. Walsh arrived at the motel on Merrimon Avenue shortly before Midnight Officer Robinson observed Mr. Walsh pushing upward in the area of his diaphragm and a discoloration about his face.

10. Mr. Walsh thereafter, at the urging of Officer Robinson, went home early at approximately Midnight.

11. While at home during the early morning of October 6, 1983, Officer Walsh awoke with increased chest pains, whereupon his wife took him to the emergency room at St. Joseph's Hospital.

12. Mr. Walsh was thereupon admitted to St. Joseph's Hospital under the care of Dr. William B. Fowler.

13. Upon Mr. Walsh's admission to the hospital he was diagnosed by Dr. Fowler as having had a myocardial infarction or heart attack.

14. Mr. Walsh remained hospitalized through October 21, 1983.

15. During his hospitalization Mr. Walsh was examined beginning October 19, 1983, by Dr. Robert Byron, a psychiatrist, at the request of Dr. Fowler.

16. Dr. Byron has diagnosed Mr. Walsh as having "psychological factor affecting physical condition."

17. Dr. Fowler has diagnosed Mr. Walsh as having recovered from his heart attack and he has released Mr. Walsh for reemployment in "any occupation that is devoid of strenuous and/or emotional stress."

18. Dr. Byron is of the opinion that Mr. Walsh is totally and permanently disabled from employment as a police officer due to his inability to manage stress.

19. Mr. Walsh is a type A personality or "perfectionist" and has some natural vulnerability to stress. He would encounter stress in jobs other than law enforcement work.

Section "17b": After the word "City" in the sixth line, add "or may submit documentation to substantiate the validity of the design".

Danie Johnson again addressed Council relative to his concerns regarding 30-day plan review period concerning small sites under 10,000 square feet.

The concerns of Mr. Johnson were addressed and resolved by Tom Tarrant.

Mr. Johnson complimented Mr. Tarrant, the Engineering Staff, and the City Council for their efforts in producing an ordinance that was viable to engineers and and developers.

On a roll call vote of 7-0, Ordinance No. 1487 passed on third and final reading, as amended.

Councilman Price noted that Ordinance No. 1487 had just passed on final reading without a motion to amend the Ordinance as previously read by Mr. Tarrant.

Upon inquiry of McDevitt, Corporation Counsel said the proper procedure to amend Ordinance No. 1487, an Ordinance to provide for the control of Soil Erosion and Sedimentation, would be for Council to have a motion to reconsider the Ordinance.

MOTION TO RECONSIDER - ORDINANCE NO. 1487 - AN ORDINANCE TO PROVIDE FOR THE CONTROL OF SOIL EROSION AND SEDIMENTATION

8. Consideration was given to a motion to reconsider Ordinance No. 1487, an ordinance to provide for the control of soil erosion and sedimentation on third and final reading.

Councilwoman Price moved to reconsider Ordinance No. 1487. This motion was seconded by Councilman Bissette and carried unanimously.

Councilman Price moved to amend the Ordinance No. 1487 as read by Mr. Tarrant and to make the Ordinance effective January 1, 1985. This motion was seconded by Councilman Bissette and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1487 passed on third and final reading, as amended.

Complete text of Ordinance No. 1487 will be found in Ordinance Book No. 10 at pages ~~247-261.~~ 213 – 227

ORDINANCE NO. 1486 - AN ORDINANCE DIRECTING THE DIRECTOR OF INSPECTIONS TO DEMOLISH AND REMOVE THE APARTMENT HOUSE KNOWN AS 37 EAST CHESTNUT STREET, ASHEVILLE, N. C.

9. Consideration was given to the third and final reading of Ordinance No. 1486, an ordinance directing the Director of Inspections to demolish and remove the apartment house known as 37 East Chestnut Street, Asheville, N. C.

Mayor McDevitt said the City of Asheville had received a petition from Donald Harmon and Gerty Kerley, owners of property adjoining Alta Avenue in the Oakley section, requesting that a portion of Alta Avenue, from its intersection with Ridge Avenue, in an easterly direction approximately 315 feet and adjoining lots 32, 34, and 58 of Sheet 9, Ward 7 be permanently closed to public use. On November 13, 1984, City Council adopted Resolution No. 84-212, a resolution of intent to close a portion of Alta Avenue and scheduling a public hearing for December 11, 1984.

Mayor McDevitt said copies of the resolution had previously been distributed to members of City Council, and the resolution would not be read unless there was a specific request to do so.

Mayor McDevitt opened the public hearing at 4:26 P.M.

Councilman Myers arrived at the meeting.

The City Clerk presented the notice to the public and the affidavit of publication.

There being no comments from members of the public, Mayor McDevitt closed the public hearing at 4:27 P.M.

Upon motion of Councilman Boland, seconded by Councilman Bissette, Resolution No. 84-233 was unanimously adopted.

Complete text of Resolution No. 84-233 will be found in Resolution Book No. 15 at page ~~103~~ 109 + 110.

ORDINANCE NO. 1487 - AN ORDINANCE TO PROVIDE FOR THE CONTROL OF SOIL EROSION AND SEDIMENTATION

7. Consideration was given to the third and final reading of Ordinance No. 1487, an ordinance to provide for the control of Soil Erosion and Sedimentation.

Mayor McDevitt said the present ordinance does not comply with State requirements, and this ordinance will allow for the those requirements. He said a public hearing was held and this ordinance passed on first reading on May 22, 1984, and at the June 5, 1984, meeting, the second reading of the ordinance was postponed to allow for a work session on August 28, 1984. He said that since Council failed to act on that Ordinance for a period of 100 days, the action in passing that Ordinance on first reading became null and void. He said a new revised Ordinance was passed by Council on first reading at the meeting on November 27, 1984, and on second reading on December 4, 1984, as amended.

Mayor McDevitt said this Ordinance was previously read on first and second readings and would not be reread unless there was a specific request to do so.

Tom Tarrant said there was one amendment Council needed to make to the Ordinance based on discussion at last week's meeting. He read the following proposed amendment.

Mayor McDevitt said this budget amendment ordinance will allocate $21,371 to the Police Department's Fiscal 1984-85 Budget to fund six months operation of Animal Control activity (1/85-6/85). He said funding will be provided by an increase in license fees in the amount of $12,000 and the balance of $9,271 will be transferred from the General Fund Contingency. He said this action will leave a balance in the Contingency Fund of $254,244.

Mayor McDevitt said copies of the Ordinance had previously been distributed to members of City Council, and the Ordinance would not be read unless there was a specific request to do so.

Upon motion of Councilman Price, seconded by Councilman Frank, Ordinance No. 1488 was unanimously adopted.

On a roll call vote of 7-0, Ordinance No. 1488 passed on first and final reading.

Complete text of Ordinance No. 1488 will be found in Ordinance Book No. 10 at page ~~262.~~ 238

RESOLUTION NO. 84-235 - RESOLUTION AUTHORIZING THE MAYOR ON BEHALF OF THE CITY OF ASHEVILLE TO EXECUTE AN EASEMENT FOR THE GENERAL SERVICES ADMINISTRATION OF THE UNITED STATES OF AMERICA TO INSTALL SUBSURFACE TELEPHONE COMMUNICATION CONDUITS ALONG BATTERY PARK AND ACROSS OTIS STREET

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12. Consideration was given to a resolution authorizing the Mayor on behalf of the City of Asheville to execute an easement for the General Services Administration of the United States of America to install subsurface telephone communication conduits along Battery Park and across Otis Street.

Mayor McDevitt said the General Services Administration of the United States of America has requested an easement from the City of Asheville to install two (2) subsurface telephone communication conduits along Battery Park and across Otis Street from the Federal Building (Grove Arcade Building) to the United States Post Office and Courthouse Building. Among other things, he said, the easement will provide that the General Services Administration (GSA) be fully responsible for the restoration of the site to its condition prior to construction, and GSA also agrees to assume full responsibility for damage to any other lines, pipes or conduits lying underneath the above-referenced streets, to perform the construction according to the permit requirements of the Department of Public Works, and agrees to indemnify and hold harmless the City of Asheville for any injuries or damages during construction.

Mayor McDevitt said copies of the resolution had previously been distributed to members of City Council, and the resolution would not be read unless there was a specific request to do so.

Upon motion of Councilman Boland, seconded by Councilman Price, Resolution No. 84-235 was unanimously adopted.

Complete text of Resolution No. 84-235 will be found in Resolution Book No. 15 at page ~~105.~~ 112

Mayor McDevitt said this ordinance was previouly read on first and second readings and would not be reread unless there was a specific request to do so.

Upon inquiry of Council, Lem Moore, Director of Inspections, said no work had been done on the house at 37 E. Chestnut Street.

Mayor McDevitt asked if Mrs. Gage was present was present and desired to speak. However, she was not present at the meeting.

On a roll call vote of 7-0, Ordinance No. 1486 passed on third and final reading.

Complete text of Ordinance No. 1486 will be found in Ordinance Book No. 10 at pages ~~245~~ and ~~246.~~ 211 + 212

RESOLUTION NO. 84-234 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A RIGHT-OF-WAY ENCROACHMENT AGREEMENT WITH OWNER OF WICK & GREENE JEWELERS LOCATED AT TEN WALL STREET

10. Consideration was given to a resolution authorizing the City Manager to execute a right-of-way encroachment agreement with the owner of Wick & Greene Jewelers located at 10 Wall Street.

Mayor McDevitt said Paul P. Greene, owner of Wick & Greene Jewelers, has requested that the City enter into an encroachment agreement so that an original antique street clock of the 1920 period may be installed upon the sidewalk at 10 Wall Street. He said placement of the clock, pursuant to the agreement, will not substantially impair or hinder the public use of the sidewalk. Further, he said, the agreement requires that the clock be installed, kept up, and if necessary for any purpose, removed by the owner of Wick & Greene Jewelers at his sole expense.

Mayor McDevitt said copies of the resolution had previously been distributed to members of City Council, and the resolution would not be read unless there was a specific request to do so.

Upon motion of Councilman Frank, seconded by Councilman Price, Resolution No. 84-234 was unanimously adopted.

Complete text of Resolution No. 84-234 will be found in Resolution Book No. 15 at page ~~104~~ 111

ORDINANCE NO. 1488 - BUDGET AMENDMENT ORDINANCE

11. Consideration was given to an Ordinance amending the FY 84-85 budget to allocate funds to implement the Animal Control Ordinance.

Mayor McDevitt said the North Carolina Department of Transportation (NCDOT) has prepared and adopted plans to make certain street and highway construction and improvements under Project No. 8.7384017 consisting of the construction of NC 81 at SR 3214 (Biltmore Avenue) and NC 81 (Bryson Street) at Meadow Road. The N. C. Department of Transportation and the City of Asheville propose to enter into an agreement whereby NCDOT will include in its construction contract provisions to install a 3/4-inch curb stop and curb box and relocate a water meter. The City of Asheville agrees to reimburse the NCDOT for the cost of said work with reimbursement to be made in a lump sum payment upon completion of the work. He said the anticipated cost of the City's participation is $30.00, and this will be paid out of the Water Maintenance Budget.

Mayor McDevitt said copies of the resolution had previously been distributed to members of City Council, and the resolution would not be read unless there was a specific request to do so.

Upon motion of Councilman Bissette, seconded by Councilman Price, Resolution No. 84-237 was unanimously adopted.

Complete text of Resolution No. 84-237 will be found in Resolution Book No. 15 at page 102, 114 &.

RESOLUTION NO. 84-238 - RESOLUTION AMENDING RESOLUTION NO. 78-132 PROVIDING FOR THE CONTINUATION OF GROUP HEALTH/HOSPITAL INSURANCE COVERAGE TO ELIGIBLE RETIREES OF THE CITY OF ASHEVILLE

15. Consideration was given to a resolution amending Resolution No. 78-132 providing for the continuation of group health/hospital insurance coverage to eligible retirees of the City of Asheville.

Mayor McDevitt said this resolution will adopt a policy for the continuation of Group Health Insurance coverage for eligible retirees provided the following requirements are complied with:

A. Employee retires on a normal basis, early retirement or becomes disabled after completing the probationary period (1 year) as defined in the Civil SErvice Rules/Regulations;

B. Retiree cannot obtain coverage through Medicare, Medicaid, spouse's employer, or current employer.

Mayor McDevitt said costs associated with this resolution will be approximately $161,361.00 for Plan C and $164,037.00 for Plan E. He said the cost is included in the overall cost for Hospitalization/Medical Insurance for FY 84-85. He said once the cost containment provisions are implemented, there should be a reduction in the amount the City pays for medical insurance.

Upon motion of Councilman Boland, seconded by Councilman Frank, Resolution No. 84-238 was unanimously adopted.

Complete text of Resolution No. 84-238 will be found in Resolution Book No. 15 at page 102, 115 &.

RESOLUTION NO. 84-236 - RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF ASHEVILLE TO ENTER INTO AN AGREEMENT WITH THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION FOR PROJECT NO. 9.8130280 WHICH CONSISTS OF RESURFACING SR 3548 (CLINGMAN AVENUE) AND THE REMOVAL AND REPLACMENT OF SIDEWALKS ALONG SR 3548 (CLINGMAN AVENUE)

13. Consideration was given to a resolution authorizing the Mayor of the City of Asheville to enter into an agreement with the North Carolina Department of Transportation for Project No. 9.813280 which consists of resurfacing SR 3548 (Clingman Avenue) and the removal and replacement of sidewalks along SR 3548 (Clingman Avenue).

Mayor McDevitt said the North Carolina Department of Transportation (NCDOT) has prepared and adopted plans to make certain street and highway improvements within the corporate limits of the City of Asheville under Project No. 9.813280, said plans consisting of the resurfacing of SR 3548 (Clingman Avenue) from Patton Avenue south 0.5 mile and the removal and replacement of existing sidewalks along SR 3548 (Clingman Avenue) from Patton Avenue south 0.5 mile. He said this agreement will provide for the City's participation in the total amount of $20,000, to effect the necessary adjustments of all utilities, and to provide right-of-way for the project, all without cost to NCDOT. He said this project will have a negative effect by reducing the appropriation of $142,000, previously set aside for sidewalks in the FY 84-85 Budget, in the amount of $20,000. However, he said this will have a very positive impact on the community by improving the streets and sidewalks on Clingman Avenue.

Mayor McDevitt said copies of the resolution had previously been distributed to members of City Council, and the resolution would not be read unless there was a specific request to do so.

Upon motion of Councilman Myers, seconded by Councilman Frank, Resolution No. 84-236 was unanimously adopted.

Complete text of Resolution No. 84-236 will be found in Resolution Book No. 15 at page ~~106~~ #3

RESOLUTION NO. 84-237 - RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF ASHEVILLE TO ENTER INTO A UTILITY AGREEMENT WITH THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION FOR PROJECT NO. 8.7384017 CONSISTING OF HIGHWAY CONSTRUCTION AND IMPROVEMENTS ON NC 81 AT SR 3214 (BILTMORE AVENUE) AND NC 81 (BRYSON STREET) AT MEADOW ROAD

14. Consideration was given to a resolution authorizing the Mayor of the City of Asheville to enter into a utility agreement with the North Carolina Department of Transporration for Project No. 8.7384017 consisting of highway construction and improvements on NC 81 at SR 3214 (Biltmore Avenue) and NC 81 (Bryson Street) at Meadow Road.

RESOLUTION NO. 84-239 - RESOLUTION AUTHORIZING EXECUTION OF AN APPLICATION FOR THE HOUSING AND URBAN DEVELOPMENT RENTAL REHABILITATION PROGRAM

Consideration was given to a Resolution authorizing execution of an application by the Mayor for the Housing and Urban Development Rehabilitation Program.

Mayor McDevitt noted that the Resolution had not been previously distributed, and requested that Vice Mayor Bratton read the Resolution.

Councilman Boland said the Council is very happy to have this amount of money for rehabilitation. He said the problem of housing for low and moderate income people is a major problem, and that the Rehabilitation Program and rent supplements are a great thing.

Upon motion of Vice Mayor Bratton, seconded by Councilman Price, Resolution No. 84-239 was unanimously adopted.

Complete text of Resolution No. 84-239 will be found in Resolution Book No. 15 at page ~~109~~ 116 and 117.

CLAIMS - FRANK BOWMAN (STREET DIVISION) AND DOROTHEA McCUEN (STREET DIVISION)

The City Clerk presented claims received from Frank Bowman (Street Division) and Dorothea McCuen (Street Division).

Mayor McDevitt referred the claims to Corporation Counsel for investigation and recommendation.

ANNOUNCEMENT - TIME CHANGE IN THURSDAY NIGHT WORK SESSION SCHEDULED FOR THURSDAY, DECEMBER 13, 1984

After discussion, Mayor McDevitt announced that it was the consensus of City Council to begin the City Council Work Session scheduled for Thursday, December 13, 1984, at 5:00 P.M. instead of the previously scheduled time of 5:30 P.M. This Work Session will be relative to the Kenilworth Report.

Mayor McDevitt requested that staff notify the citizens who had written him about the change in time.

BIDS - TWO (2) TRAILER MOUNTED LEAF COLLECTION MACHINES - SANITATION DIVISION

16. Consideration was given to bids received for two (2) trailer mounted leaf collection machines for the Sanitation Division.

Mayor McDevitt said three (3) bids were received for two (2) leaf vacuums for the Sanitation Division. He said Clark Brown, Director of Public Works, recommends rejection of the bid received from Porter Brothers on the basis that the bid does not meet specifications, and rejection of the bid from E. F. Craven Company on the basis that deficiences were found in the suction impeller, power transmission, fan shaft, and bearings. He said Mr. Brown further recommends that Council accept the bid received from N. C. Equipment Company in the amount of $36,980.00 for the Super Vac L-400 Trailer Mounted Leaf Collection Machines on the basis that this was the lowest bid meeting specifications.

BID TABULATION

Porter Brothers	$ 18,600.00
E. F. Craven Company	$ 33,556.00
N. C. Equipment Company	$ 36,980.00

Mayor McDevitt said funding for this equipment has been budgeted in the FY 84-85 Capital Outlay Funds in the total amount of $33,900. He said the over-run is anticipated to be met from department-wide surplus.

Councilman Price moved to approve the bid received from N. C. Equipment Company in the amount of $36,980.00. This motion was seconded by Councilman Boland and carried unanimously.

MOTION - PUBLIC HEARING SCHEDULED - SITE PLAN "COUNTRY TOWNS OF ASHEVILLE"

17. Consideration was given to a motion scheduling a public hearing on the site plan of "Country Towns of Asheville", a proposed condominium project, to be located on Waters Road for January 8, 1985.

Mayor McDevitt said Councilman Bissette had informed him that he had a conflict of interest on the "Country Towns of Asheville" matter, and had requested to be excused from voting on this or any subsequent actions by Council relative to "Country Towns of Asheville".

Councilman Price moved to excuse Councilman Bissette from voting on this and any subsequent actions relative to "Country Towns of Asheville". This motion was seconded by Councilman Myers and carried unanimously.

Councilman Boland moved to schedule a public hearing on the site plan of "Country Town of Asheville" for January 8, 1985. This motion was seconded by Councilman Myers and carried unanimously with Councilman Bissette abstaining.

Tuesday, December 18, 1984 - 4:00 p.m.

Regular Meeting

Present: Mayor Larry McDevitt, Presiding; Vice-Mayor Wilhelmina Bratton; Councilmen Mary Lloyd Frank, Norma T. Price, Walter R. Boland, Louis Bissette; Corporation Counsel William F. Slawter; City Manager Neal Creighton; Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Councilman Gordon Myers

INVOCATION

The invocation was given by Councilman Bissette.

APPROVAL OF THE MINUTES - DECEMBER 11, 1984

1. Approval of the minutes of the December 11, 1984 meeting.

Mayor McDevitt announced the approval of the minutes of the December 11, 1984, meeting as distributed.

PROCLAMATION - "STOP TORTURE WEEK" DECEMBER 3-10, 1984

Mayor McDevitt proclaimed the week of December 3-10, 1984, retroactively as "Stop Torture Week".

PUBLIC HEARING - CLOSING UNNAMED ALLEY BETWEEN ASHELAND AVENUE AND ASTON STREET

RESOLUTION NO. 84-240 - RESOLUTION PERMANENTLY CLOSING AN UNNAMED ALLEY BETWEEN ASHELAND AVENUE AND ASTON STREET

2. A public hearing was held relative to closing an unnamed alley between Asheland Avenue and Aston Street.

Mayor McDevvitt said a request has been filed by the United States Postal Service, owners of property adjoining an unnamed alley between Asheland Avenue and Aston Street, asking that said unnamed alley shown on Ward 4, Sheet 1, of the Buncombe County tax maps and joining Tax Lots 260, 249 and 466, be permanently closed to public use. He said this alley serves the property at the U.S. Postal Service and joins the property at Monteath's Automotive Service Center. There should be no positive or negative effect on current revenues or expenditures, or administrative cost to Public Works or any other City Department. He said the U. S. Postal Service feels this will help them to better utilize their property.

Mayor McDevitt opened the public hearing at 4:11 P.M.

The City Clerk presented the notice to the public and the affidavit of publication.

Ann Hyatt, representing Mr. Monteath due to his illness, said Mr. Monteath does not want the alley closed because it would facilitate his and the Post Office's business by leaving the alley open.

MAYOR McDEVITT - RESPONSES RELATIVE TO THE KENILWORTH REPORT

Mayor McDevitt said he had received a number of letters from different people or groups of people expressing various opinions about the Kenilworth Report and requesting notification about meetings. Mayor McDevitt said he had written all of the people back enclosing a copy of the Kenilworth Report, advising them of the December 13th meeting, and telling them that the purpose of the Thursday night Mmeting was for a work session and not a public hearing, in the sense that Council would have one, if and when the Council considers any changes. However, he said, he did tell them they were welcome to come, but that the purpose of the meeting was to update the Council, make sure they understand what the report says and the recommendations it made, and that the Council understand the impact of any changes the report suggests.

RALPH BISHOP

Ralph Bishop again addressed the Council relative to human rights and enforcement of the United States Constitution.

ADJOURNMENT

Upon motion of Councilman Myers, seconded by Councilman Bissette, the meeting adjourned at 6:15 P.M.

Larry McDevitt
MAYOR

William F. Nolan
CITY CLERK

On a roll call vote of 6-0, Ordinance No. 1489 passed on first and final reading.

Complete text of Ordinance No. 1489 will be found in Ordinance Book No. 10 at page ~~283~~ 339 ½

MOTION - CANCELING REGULAR CITY COUNCIL MEETINGS FOR DECEMBER 25, 1984, AND JANUARY 1, 1985

4. Mayor McDevitt said since the December 25, 1984, meeting falls on Christmas Day and the January 1, 1985, falls on New Year's Day, it is necessary to cancel these meetings.

Councilman Bissette moved to cancel the Regular City Council Meetings for December 25, 1984, and January 1, 1985. This motion was seconded by Councilman Price and carried unanimously.

ORDINANCE NO. 1490 - BUDGET ORDINANCE AMENDMENT - FUNDING FOR INSTALLATION OF NEW TELEPHONE SYSTEM

5. Consideration was given to a budget ordinance amendment to provide funding in the amount of $23,500 for installation costs of a new telephone system.

Mayor McDevitt requested that he be excused from voting on this ordinance and also the resolution authorizing the contract with Continental Telephone Company because his law firm represents this company.

Councilman Price moved to excuse the Mayor from voting on Items 5 (Budget Ordinance Amendment - Funding for Installation of Telephone System) and 6 (Resolution authorizing the Mayor to sign necessary contracts for the purchase, financing, installation, and maintenance of a new telephone system for the City of Asheville). This motion was seconded by Councilman Boland and carried unanimously.

Mayor McDevitt relinquished the chair to Vice Mayor Bratton.

Vice Mayor Bratton said this budget ordinance amendment will provide funding for completing the telephone conduit system, and remodeling a room to house the telephone equipment. She said funding will be provided by using Revenue Sharing Contingency. The Contingency balance after this action will be $62,127.

Vice Mayor Bratton said copies of the budget amendment had previously been distributed to members of City Council, and the budget amendment would not be read unless there was a specific request to do so.

Councilman Boland moved for the adoption of Ordinance No. 1490. This motion was seconded by Councilman Frank and carried unanimously, with Mayor McDevitt abstaining.

On a roll call vote of 5-0, Ordinance No. 1490 passed on first and final reading, with Mayor McDevitt abstaining.

Upon inquiry of Corporation Counsel, Ms. Hyatt said Mr. Monteath would not be denied access to his business if the alley were closed.

Upon inquiry of Council, Larry Ward pointed out on a map the location of the fence installed in the alley by Monteath's. Mr. Ward said the closing would not require Mr. Monteath to remove the fence.

Mayor McDevitt explained to Ms. Hyatt that once the alley was closed, the property would be divided equally between the owners of the adjoining property, Monteath's and the U. S. Postal Service.

Mayor McDevitt closed the public hearing at 4:20 P.M.

Mayor McDevitt said copies of the resolution had previously been distributed to members of City Council, and the resolution would not be read unless there was a specific request to do so.

Upon motion of Councilman Boland, seconded by Councilman Bissette, Resolution No. 84-240 was unanimously adopted.

Complete text of Resolution No. 84-240 will be found in Resolution Book No. 15 at page ~~110~~ 119

ORDINANCE NO. 1489 - BUDGET ORDINANCE AMENDMENT - HALF CENT LOCAL OPTION SALES TAX

3. Consideration was given to a budget ordinance amendment to reduce budgeted revenue for half cent local option sales tax.

Mayor McDevitt said this budget ordinance amendment will reduce budgeted revenue for the half cent local option sales tax by $252,000. He said this budget ordinance amendment will reduce appropriations for General Debt Service/Capital Reserve by $151,200, and will reduce the Contingency for Water and Sewer Improvements by $100,800.

Bob Wurst, Director of Audit and Budget, said the City is currently receiving 2.3 million dollars from the one cent tax already in effect, which is collected by State and distributed on a point of sale basis. However, he said the half-cent sales tax is being distributed by the State on a per capita basis.

Mr. Wurst said he had made his revenue projections for the budget based on a formula furnished by the State. He said the City has received the first quarterly payment for FY 84-85 and from that check, it is apparent that our estimate in the budget is too high. Therefore, he said, this budget amendment is to reduce the budget to the amount we expect to receive based on this first quarter's check. He said although this will have a negative impact on the City's revenues, because the funds were set aside in the Capital Reserve Fund, it will not affect any projects approved in the FY 84-85 Budget.

Councilman Price moved for the adoption of Ordinance No. 1489. This motion was seconded by Councilman Frank and carried unanimously.

Mayor McDevitt took over the chair.

RESOLUTION NO. 84-242 - RESOLUTION EXTENDING AN OPTION ON THE SALE OF AIRPORT PROPERTY TO THE STATE OF NORTH CAROLINA

7. Consideration was given to Resolution relative to extending an option on the sale of the Airport property to the State of North Carolina.

Mayor McDevitt said on October 2, 1984 by Resolution No. 84-188 the Mayor was authorized to execute an Option Agreement with the State of North Carolina for the sale of 50 acres of land from a tract containing approximately 65.5 acres adjoining the Western North Carolina Agricultural Center. He said the Option Agreement is contingent upon the City of Asheville being free from any restrictions that might be imposed by the Federal Aviation Administration or other authority upon the expenditure of the funds in the sum of $500,000 to be derived from said sale. He said this will authorize an extension of the option that expires on December 31, 1984.

Mayor McDevitt said copies of the Resolution had previously been distributed to members of City Council, and the Resolution would not be read unless there was a specific request to do so.

Upon motion of Councilman Frank, seconded by Councilman Price, Resolution No. 84-242 was unanimously adopted.

Complete text of Resolution No. 84-242 will be found in Resolution Book No. 15 at page ~~112~~ 120.

BIDS - STEEL MONOLEVER TRAFFIC SIGNAL POLES AND MAST ARMS - TRAFFIC ENGINEERING DIVISION

8. Consideration was given to bids received for Steel Monolever Traffic Signal Poles and Mast Arms.

Mayor McDevitt said sealed bids were received to furnish four (4) Steel Monolever Traffic Signal Poles and four (4) Mast Arms for the Traffic Engineering Division. He said one bid was received, and the staff's recommendation is to award the bid to Southeastern Safety Supplies, Inc., in the amount of $12,281.00. Mayor McDevitt said funding for the purchase of these materials is budgeted and available in Account Code 65-940-0410-278-9.

Upon inquiry of Councilman Bissette, Bob McDonald, Traffic Engineer, said eight (8) requests for proposals were sent out; however, only one (1) bid was received. He said he thought the reason for receiving just the one (1) bid was because the companies felt it was not feasible to go through a special design process in order to submit a bid for the small number of "odd size" poles and arms.

Upon inquiry of Councilman Price, Bob McDonald said the odd size of these poles was a special order and would be placed at the intersection of new South Charlotte Street and College Street.

Complete text of Ordinance No. 1490 will be found in Ordinance Book No. 10 at page ~~264~~ 230 JC

RESOLUTION NO. 84-241 - RESOLUTION AUTHORIZING THE MAYOR TO SIGN THE NECESSARY CONTRACTS FOR THE PURCHASE, FINANCING, INSTALLATION, AND MAINTENANCE OF A NEW TELEPHONE SYSTEM

6. Consideration was given to a Resolution authorizing the Mayor to sign the necessary contracts for the purchase, financing, installation, and maintenance of a new telephone system for the City of Asheville.

Vice Mayor Bratton said the City Council had instructed the Administrative Services Division of the Department of Management Services to solicit bids for a new telephone system for the City of Asheville. She said the Administrative Services Division requested and received formal bids in accordance with North Carolina General Statutes Sec. 143-129 and has completed an evaluation of the bid proposals submitted. Continental Telephone Company of North Carolina is the lowest responsible bidder and has proposed a telephone system which exceeds the minimum specifications of the bid. She summarized the bids received as follows:

SUMMARY OF BIDS

Continental Telephone Company of North Carolina	$290,500.00
Universal Communication System	316,718.00
Telephone Systems of Asheville	335,200.00
Rolm Southeast Corporation	336,000.00
AT&T Information Systems	340,394.00
R&E Electronics	347,611.00
Southern Bell Advanced Systems	424,415.88

Vice Mayor Bratton said the new telephone system is expected to save the City of Asheville about $340,600 over ten (10) years. She said the bid received from Continental Telephone Company in the amount of $290,500.00 is the lowest bidder. For the current fiscal year, she said, $23,500 would have to be appropriated to cover installation and site preparation costs, and for fiscal year 1985-86, about $7,800 less would have to be appropriated for telephone costs.

Vice Mayor Bratton said copies of the Resolution had previously been distributed to members of City Council, and the resolution would not be read unless there was a specific request to do so.

Councilman Bissette and Councilman Boland thanked Richard Kendrick for his hard work and efforts on the new telephone system.

Upon motion of Councilman Frank, seconded by Councilman Price, Resolution No. 84-241 was unanimously adopted, with Mayor McDevitt abstaining.

Complete text of Resolution No. 84-241 will be found in Resolution Book No. 15 at page ~~111~~ 119 JC

Mayor McDevitt requested that he be excused for voting on this matter due to the fact that his law firm represents Apple Tree Chevrolet.

Councilman Price moved to excuse Mayor McDevitt from voting on the automobiles for the Fire Department. This motion was seconded by Councilman Bissette and carried unanimously.

Mayor McDevitt relinquished the chair to Vice Mayor Bratton.

Vice Mayor Bratton said sealed bids were received to furnish the Fire Department with three (3) automobiles. She summarized the bids and staff recommendation as follows:

Bid Summary/Item C (1 Full-Size Auto)	Unit Cost	Energy Eff. Cost	Total
Pelle Dodge	$ 9,964.17	$ 16,057.92	$ 9,964.17
Matthews Ford	10,450.00	16,543.75	10,450.00
Apple Tree Chevrolet	9,999.75	15,735.04	9,999.75
Woodcock Motors	10,627.16	16,720.91	10,627.16

Bid Summary/Item D (2 Sub-Compact Autos)	Unit Cost	Energy Eff. Cost	Total
Pelle Dodge	$ 6,994.39	$ 11,056.89	$ 13,988.78
Matthews Ford	6,879.00	10,779.00	13,758.00
Apple Tree Chevrolet	6,786.30	10,397.41	13,572.60
Woodcock Motors	6,831.96	10,731.96	13,663.92

Staff Recommendation:

1 Full Size Sedan for Fire Department - Award to Apple Tree Chevrolet for one (1) 1985 Chevrolet Impala at a cost at $9,999.75.

2 Sub Compact Sedans for Fire Department - Award to Apple Tree Chevrolet to furnish two (2) 1985 Chevrolet Chevette's at $6,786.30 each for a total of $13,572.60.

Vice Mayor Bratton said sufficient funds for these purchases are available in Revenue Sharing Funds, Fire Department activities, and these items were budgeted in FY 84-85.

Councilman Bissette moved to accept the bid received from Apple Tree Chevrolet in the total amount of $23,752.35. This motion was seconded by Councilman Frank and carried unanimously, with Mayor McDevitt abstaining.

Mayor McDevitt took over the chair and presided over the rest of the meeting.

Councilman Price moved to accept the bid received from Southeastern Safety Supplies, Inc. in the amount of $12,281.00. This motion was seconded by Councilman Bissette and carried unanimously.

BIDS - AUTOMOBILES FOR THE POLICE DEPARTMENT

9. Consideration was given to bids received for automobiles for the Police and Fire Departments.

Mayor McDevitt said the bids for the automobiles for the Police and Fire Departments would be given separate consideration.

Mayor McDevitt said sealed bids were received to furnish the Police Department with sixteen (16) police type automobiles. He summarized the bids and staff recommendation as follows:

Bid Summary/Item A (12 Police/Patrol)	Unit Cost	Energy Eff. Cost	Total
Pelle Dodge	$ 12,077.82	$ 19,577.82	$ 144,933.84
Matthews Ford	10,879.00	16,972.75	130,548.00
Apple Tree Chevrolet	11,750.11	18,250.11	141,001.32
Woodcock Motors	11,065.98	17,159.73	132,791.76

Bid Summary/Item B (4 Police/Unmarked)	Unit Cost	Energy Eff. Cost	Total
Pelle Dodge	$ 11,699.72	$ 19,199.72	$ 46,798.88
Matthews Ford	10,597.00	16,690.75	42,388.00
Apple Tree Chevrolet	11,470.96	17,970.96	45,883.84
Woodcock Motors	10,766.10	16,859.85	43,064.40

Staff Recommendation:

16 automobiles for Police Department - Matthews Ford, Inc. to furnish 12 each 1985 Ford LTD Patrol vehicles at $10,879.00 each and four (4) each 1985 Ford LTD unmarked vehicles at $10,597.00 each for a total of $172,936.00.

Mayor McDevitt said sufficient funds for these purchases are available in Revenue Sharing Funds, Police Department activities, and these items were budgeted in FY 84-85.

Councilman Boland moved to accept the bid received from Matthews Ford for 16 automobiles for the Police Department (Items A and B) in the total amount of $172,936.00. This motion was seconded by Councilman Price and carried unanimously.

BIDS - AUTOMOBILES FOR FIRE DEPARTMENT

9-A. Consideration was given to bids received for automobiles for the Fire Department.

Upon motion of Councilman Frank, seconded by Councilman Price, Resolution No. 84-243 was unanimously adopted.

Complete text of Resolution No. 84-243 will be found in Resolution Book No. 15 at page ~~113.~~ 121 92

RESOLUTION NO. 84-244 - RESOLUTION AUTHORIZING THE MAYOR ON BEHALF OF THE CITY OF ASHEVILLE TO EXECUTE AN AGREEMENT FURTHER CLARIFYING THE MASTER AGREEMENT DATED AUGUST 15, 1984, BY AND AMONG THE CITY, THE COUNTY, AND SCHNEIDER NINE, INC.

11. Consideration was given to a Resolution authorizing the Mayor on behalf of the City of Asheville to execute an agreement further clarifying the Master Agreement dated August 15, 1984, by and among the City, the County, and Schneider Nine, Inc.

Mayor McDevitt said this Resolution will authorize him to execute an agreement by and among the City of Asheville, Buncombe County, and Schneider Nine, Inc. which further clarifies and defines certain responsibilities due to additional questions that have come up since the Memorandum of Understanding was executed for the benefit of a better understanding by future Councils.

Mayor McDevitt said copies of the Resolution and Agreement had previously been distributed to members of City Council, and the Resolution would not be read unless there was a specific request to do so.

Upon motion of Councilman Price, seconded by Councilman Bisette, Resolution No. 84-244 was unanimously adopted.

Complete text of Resolution No. 84-244 will be found in Resolution Book No. 15 at page ~~114.~~ 122 and 123 92

BIDS - DISPOAL PARCELS 42, 142, 194, and 196/EAST RIVERSIDE RENEWAL PROJECT

12. Consideration was given to a motion approving the sale of Disposal Parcels 42, 142, 194, and 196 in the East Riverside Renewal Project.

Mayor McDevitt said the Housing Authority has tentatively accepted the following bids for Disposal Parcels 42, (East End/Valley Street Area) 142, 194, and 196 in the East Riverside Renewal Project:

Parcel	Reuse	Price	Bid	Redeveloper
42	Residential	$3,600.00	$3,700.00	R & R Associates
142	Residential	2,000.00	2,100.00	R & R Associates
194	Residential	950.00	1,050.00	R & R Associates
196	Residential	1,500.00	1,500.00	Mr. & Mrs. Henry Hardy

Councilman Frank moved to approve the sale of Disposal Parcels 42, 142, 194, and 196. This motion was seconded by Councilman Price and carried unanimously.

RESOLUTION NO. 84-243 - RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF ASHEVILLE TO SIGN A CONTRACT WITH JOHN A. BROADBOOKS, ASLA, LANDSCAPE ARCHITECT AND PLANNER FOR CONSULTANT SERVICES IN THE SOUTH PACK SQUARE STREETSCAPE PROJECT

10. Consideration was given to a Resolution authorizing the Mayor of the City of Asheville to sign a contract with John A. Broadbooks, ASLA Landscape Architect and Planner for Consultant Services in the South Pack Square Streetscape project.

Mayor McDevitt said the City of Asheville through the Department of HUD received Jobs Bill Grant funds in the amount of $538,000 on August 1, 1983. Further, the South Pack Square area was previously identified and designated an eligible area for the expenditure of Community Development and Jobs Bill funds for economic development and physical revitalization efforts. He said the South Pack Square area is a major economic and physical impact area of downtown Asheville, and services are needed to prepare bid documents and construction inspection.

Mayor McDevitt said the City Engineering, Asheville Housing Authority, Planning Department and Community Development Department staff did solicit and review four consultant development firm proposals, and they recommend that the City enter into a consultant contract with John Broadbooks in the sum of $15,760.00, plus expenses not to exceed $7,000. He said there are funds available in surplus Jobs Bill funds to cover these expenses.

Mayor McDevitt said copies of the resolution had previously been distributed to members of City Council, and the resolution would not be read unless there was a specific request to do so.

Mr. Broadbooks said the contract, as presented to him, contains several items that are normally contained in the standard AIA (American Institute of Architects) Contract as reimbursable expenses. He said his purpose in listing them individually as reimbursable expenses was to give the City the benefit of actual costs.

Upon inquiry of Councilman Price, Mr. Broadbooks said he was required to carry liability insurance in the amount of $100,000 for this project. He said this is not a normal expense for him, and the premium of $1,600 for the insurance was listed by him as a reimbursable expense. He said as soon as the project has been completed, he would return any unused rebatable premiums to the City.

Upon inquiry of Mayor McDevitt, Corporation Counsel Bill Slawter said if it was agreeable with Mr. Broadbooks and if insurance for the project could be obtained through the City's carrier, this section could be deleted from Mr. Broadbooks' contract. He said he would check into this.

Logan Delany thanked the South Pack Square Committee for their work in the South Pack Square area. He said they have done a commendable job in trying to recommend the clean up and the rehabilitation that the City is trying to make in the area.

C. RESOLUTION NO. 84-247 - Resolution calling for a public hearing on January 8, 1985, for the adoption of an Ordinance directing the Director of Inspections to demolish and remove the dwellings known as 48 and 53 Blalock Avenue, Asheville, North Carolina.

HIGHLIGHTS: Proceedings have heretofore been instituted in accordance with the provisions of N. C. General Statutes 160A-441 et seq. and the Housing Code of the City of Asheville. A hearing was held, and a Findings of Fact & Order entered finding that the dwellings known as 48 and 53 Blalock Avenue, in their present condition, are dilapidated, unfit for human habitation, unsafe and dangerous to life. These properties are owned by Mr. Ted B. Freck. This resolution will schedule a public hearing for January 8, 1985.

Resolution Book No. 15 at pages ~~117~~ 126 and ~~118~~ 127.

D. RESOLUTION NO. 84-248 - Resolution appointing a member to the Asheville-Buncombe Historic Resources Commission.

HIGHLIGHTS: This resolution will appoint Mrs. Shirley Ann McCullough as a member to the Asheville-Buncombe Historic Resources Commission for a three (3) year term.

Resolution Book No. 15 at page ~~119~~ 128

E. Motion scheduling a public hearing on January 8, 1984, relative to the site plan of the proposed new Vance Elementary School to be located on Sulphur Springs Road.

HIGHLIGHTS: The Asheville Planning and Zoning Commission at a meeting held December 5, 1984, reviewed the site plan of the proposed new Vance Elementary School to be located on Sulphur Springs Road in West Asheville. The plan was prepared by Wood and Cort, Architects, for Asheville City Schools, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of the site plan to City Council subject to compliance with the Erosion Control Ordinance. The Commission further reommended that City Council see whether or not the storm drain system on the lower portion of Harnett Street, below the School, is adequate to support the runoff from the project as it is now and as it is to be constructed.

F. Motion scheduling a public hearing on January 15, 1984, relative to rezoning property located at 666 Merrimon Avenue, Ward 9, Sheet 6, Lot 7-3/4, from R-3 Residential District to CH Commercial Highway District (Requested of Dr. Paul Michalove by Ridgley Robinson, Agent)

CONSENT AGENDA

13. Consideration was given to a motion approving the consent agenda.

Mayor McDevitt said the following items are of a routine nature and they have been previously reviewed by the members of the City Council. Therefore, by unanimous vote to approve these items, the City Council may, pursuant to the procedures established in Ordinance No. 1008, adopt all of the items with one motion without the full reading and/or separate motion adopting each individual item. Upon the request of a citizen, a member of the City Council, and/or a member of the City staff, any single item scheduled for approval on the consent agenda may be considered separately. Mayor McDevitt summarized each item on the Consent Agenda for the benefit of the public.

A. RESOLUTION NO. 84-245 - Resolution authorizing the Mayor to sign a contract for fire protection services with the Veterans Administration Medical Center at Oteen.

HIGHLIGHTS: The Mayor was first authorized by Resolution No. 76-2 adopted January 7, 1976, to sign an agreement with the Veterans Administration Hospital at Oteen regarding the provision of certain fire protection services. Subsequent resolutions have authorized the continuation of those services. However, the present agreement expires on December 31, 1984. The Veterans Administration Medical Center has requested a one-month extension of the existing contract pending technical and legal review of a 3-year contract which has been negotiated by City staff and the local Veterans Administration staff. This resolution will authorize the Mayor to sign a one-month extension of the present contract.

Resolution Book No. 15 at page ~~116~~ 124

B. RESOLUTION NO. 84-246 - Resolution to change the name of the "Division of Inspections and Demolitions" to the "Division of Building Inspections."

HIGHLIGHTS: The primary duties of the Division of Inspections and Demolitions are to enforce the North Carolina State Building Code and the Housing Code of the City of Asheville. Pursuant to N. C. G. S. 160A-411.1 those inspectors employed to enforce the N. C. State Building Code are required to be certified by the N. C. Code Officials Qualification Board. The current name of the Division of Inspections and Demolitions is overly broad in that it suggests that the Division is responsible for inspections pertaining to areas which are beyond the Division's level of training and expertise.

Resolution Book No. 15 at page ~~116~~ 125

Councilman Boland requested the City Manager to see if more surveillance of the area could be provided by the Police Department in the interim.

ROBERT FIELDS - CHARLES STREET - PETITION TO BARRICADE SOUTH END OF CHARLES STREET

Mr. Robert Fields, 17 Charles Street (253-4013), and Mr. Leonard Smith, 9 Charles Street, presented a petition from the residents of Charles Street requesting that the City install a barricade on the south end of Charles Street to put a stop to undesirable activities, such as excessive prostitution, drug abuse, noise, common nuisances, etc., from taking place in the area.

Mr. Fields said that his efforts to coordinate assistance through Dr. Jones and the Board of Education had been unsuccessful. He said the residents do not want the gate that is proposed to be installed by the Board of Education and reemphasized the residents' request for a barricade.

Mayor McDevitt told Mr. Fields and Mr. Smith that the City Manager would look into the request and that someone from the City staff would be back in touch with him.

Upon inquiry of Council, Larry Ward said he had talked with Mrs. Cooper with Asheville City Schools and was told that the gate would be installed in the next two (2) weeks.

Councilman Boland and Councilman Bissette reiterated Council's interest in the problem, and assured Mr. Smith and Mr. Fields of Council's intention to do something about the problems the residents have brought to their attention.

Vice Mayor Bratton said she thought Council believed they had resolved the problems the residents were encountering when they closed Charles Street in July. She requested that Mr. Fields and Mr. Smith give the Mayor the opportunity to look into the problem.

RALPH BISHOP

Ralph Bishop again addressed Council relative to gambling in the City of Asheville.

MRS. GAGE AND MRS. FLETCHER - REQUEST FOR EXTENSION ON REPAIRS TO 37 E. CHESTNUT STREET

Mrs. Fletcher and Mrs. Gage addressed City Council relative to a request for additional time to repair the house at 37 E. Chestnut Street. They said they had not had time to deal with this due to caring for a sick cousin.

Mayor McDevitt said that Council had granted extension after extension to Mrs. Gage on the repairs to 37 E. Chestnut Street, Normandy

HIGHLIGHTS: The Asheville Planning and Zoning Commission at a meeting held December 5, 1984, considered the request of Dr. Paul Michalove by Ridgley Robinson, Agent, that Ward 9, Sheet 8, Lot 7-3/4 be rezoned from R-3 Residential District to CH Commercial Highway District. The property is located at 666 Merrimon Avenue. After review and discussion, the Commission voted to recommend to City Council that Ward 9, Sheet 8, Lot 7-3/4 be rezoned from R-3 Residential District to CH Commercial Highway District.

Upon motion of Councilman Price, seconded by Councilman Boland, the items on the Consent Agenda were unanimously adopted.

ANNOUNCEMENT BY MAYOR McDEVITT - CONTRIBUTION FROM SCHNEIDER NINE, INC.

Mayor McDevitt said the City Council is pleased to announce the receipt yesterday of a contribution in the amount of $150,000 from the developer for the Pack Plaza Project. He said the contribution fulfills stipulations in the Master Agreement among the City, Buncombe County, and Schneider Nine, Inc. He said the Council will decide at a future date the specific application of the funds toward the possible development of an Arts and Science Facility for the Pack Plaza Project.

ANNOUNCEMENT BY MAYOR McDEVITT - EMPLOYEE CHRISTMAS DINNER

Mayor McDevitt announced that the City Employee Christmas Dinner would be held on Thursday, December 20, 1984, from 11:30 a.m. until 2:30 p.m. and encouraged members of Council to attend.

CLAIMS - JOE OLACHEA (COUNTY WATER), JOE KEENE (FIRE DEPARTMENT), AND BARBARA WARREN (COUNTY WATER)

The City Clerk presented claims received from Joe Olachea (County Water), Joe Keene (Fire Department), and Barbara Warren (County Water).

Mayor McDevitt referred the claim to Corporation Counsel for investigation and recommendation.

PETITION - JACK SMATHERS AND HOMEWAY ROAD RESIDENTS

Jack Smathers presented a petition from the residents of Homeway Road requesting that 20 mph speed limit signs be posted on Homeway Road, and also the installation of a caution light at the corner of Homeway Road and Appalachian Way. He said there have been two (2) wrecks in the area recently. He said the problem of speeding and wreckless driving is bad all the time, but the problem is more severe on the weekends, and the problem is worse on Sundays. He said the residents biggest concern is for the safety of their children, and there are approximately 25 small children in the neighborhood.

Mayor McDevitt thanked Mr. Smathers for bringing the matter to the attention of Council, and told him that someone from the City staff would be in touch with him regarding the requests made by the residents of Homeway Road.

Road, and other properties owned by Mrs. Gage. He said it appeared to the Council she has deliberately violated the law and disregarded the things Council had told them must be done in order to comply with the law.

Upon inquiry of Mayor McDevitt, Lem Moore said 37 E. Chestnut Street was scheduled for demolition on January 15, 1985.

Mrs. Gage said she could have the house in excellent condition in two (2) weeks, and it would also meet requirements of the Housing Code if given the opportunity by City Council.

Mr. Moore said the proposal made by Mrs. Gage, although he felt it was made in good faith, was a physical impossibility. He said he would suggest that they invest their money into repairs currently being made to the house at 22 Normandy Road, rather than try to do anything with the house at 37 E. Chestnut Street.

City Council took no action on the request of Mrs. Gage and Mrs. Fletcher for an extension in order to make repairs to the house at 37 E. Chestnut Street.

ADJOURNMENT

Upon motion of Councilman Price, seconded by Councilman Boland, the meeting adjourned at 5:45 P.M.

Larry McDevitt
MAYOR

William F. Valentine
CITY CLERK

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PUBLIC HEARING - SITE PLAN OF "COUNTRY TOWNS OF ASHEVILLE" - WATERS ROAD

2. A public hearing was held relative to approval of the site plan of "Country Towns of Asheville," a proposed condominium project, to be located on Waters Road.

Mayor McDevitt said the Asheville Planning and Zoning Commission at a meeting held on October 3, 1984, reviewed the site plan of "Country Towns of Asheville," a proposed condominium project to be located on Waters Road. The plan was prepared by Nilsson and Watts Associates, Engineers, for First Communities of Asheville, Developers, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of the site plan to City Council subject to certain easements being recorded and compliance with the Erosion Control Ordinance. This public hearing was scheduled at the meeting on December 11, 1984.

Mayor McDevitt opened the public hearing at 4:20 p.m.

The City Clerk presented the notice to the public, setting the time and date for the public hearing, and the affidavit of publication.

Verl Emrick, Director of Planning, said the proposed project would consist of 37 buildings, with two units per building, for a total of 74 units to be built on 18 acres. He said all provisions of the ordinance have been met, and water and sewer commitments are in hand. He said, as requested by the Planning and Zoning Commission, easements have been executed for two pieces of property located adjacent to the proposed project area. He said these easements have been recorded.

Mr. Emrick said the roads in the proposed project would be constructed according to City specifications, and the developer would be dedicating the roads to the City of Asheville. He said the project would be developed in one phase and would be geared toward retired people.

Mayor McDevitt closed the public hearing at 4:29 p.m.

Councilman Bissette requested that he be excused from voting on the proposed site plan due to his having a financial interest in the real property.

Councilman Price moved to excuse Councilman Bissette from voting on the site plan for the Country Towns of Asheville. This motion was seconded by Councilman Boland and carried unanimously.

Mayor McDevitt noted that Councilman Bissette did not attend the pre-council work session or discuss the issue of Country Towns of Asheville.

Councilman Myers moved to approve the site plan of "Country Towns of Asheville," a proposed condominium project, to be located on Waters Road. This motion was seconded by Councilman Boland and carried unanimously.

PUBLIC HEARING - DEMOLITION OF 48 AND 53 BLALOCK AVENUE

ORDINANCE NO. 1491 - AN ORDINANCE DIRECTING THE DIRECTOR OF INSPECTIONS TO DEMOLISH AND REMOVE THE DWELLINGS KNOWN AS 48 AND 53 BLALOCK AVENUE

3. A public hearing was held relative to the adoption of an ordinance directing the Director of Inspections to demolish and remove dwellings known as 48 and 53 Blalock Avenue, Asheville, North Carolina.

Tuesday - January 8, 1985 - 4:00 p.m.

Regular Meeting

Present: Mayor Larry McDevitt, Presiding; Vice-Mayor Wilhelmina Bratton; Councilmen Mary Lloyd Frank, Norma T. Price, Gordon Myers, Walter R. Boland, and Louis Bissette; Corporation Counsel William F. Slawter; City Manager Neal Creighton; Associate City Manager/City Clerk William F. Wolcott, Jr.; .

Absent: None

INVOCATION

The invocation was given by Councilman Norma Price.

APPROVAL OF THE MINUTES - DECEMBER 18, 1984, MEETING

1. Approval of the minutes of the December 18, 1984, meeting.

Mayor McDevitt announced the approval of the minutes of the December 18, 1984, meeting as submitted.

PRESENTATION OF "POSTER-OF-THE-YEAR AWARDS" - MAYOR'S COMMITTEE ON EMPLOYMENT OF THE HANDICAPPED

Mayor McDevitt introduced Mr. Gary Martin, Chairman of the Mayor's Committee on Employment of the Handicapped and Pam Crawford who said each year the President's Committee on Employment of the Handicapped sponsors a "National Poster-of-the-Year" contest. He said Asheville's Mayor's Committee on Employment of the Handicapped began a local contest last year. He then asked Mayor McDevitt to present the awards.

Mayor McDevitt presented Jeff Wilson, the First Place winner, with a certificate and a $75 check: James Dimon, Second Place winner, received a certificate and a $50 check; and Todd Greene, Third Place winner, received a certificate and a $25 check. Mayor McDevitt said donations for the Poster-of-the-Year Award Contest were made by Three Mountaineers, Stencel Corporation, Square-D, and Wilson Art.

Mr. Martin said Jeff Wilson will represent the State of North Carolina in the national competition level.

PROCLAMATION - "DR. MARTIN LUTHER KING, JR. WEEK" - JANUARY 12-19, 1985

Mayor McDevitt read a proclamation proclaiming the week of January 12-19, 1985, as "Dr. Martin Luther King, Jr. Week."

Mayor McDevitt presented the proclamation to Oralene Simmons, Director of the Montford Recreation Center.

Mayor McDevitt said a Prayer Breakfast, sponsored by the Asheville Parks, Recreation, and Public Facilities Department, various clubs, and organizations will be held at the Montford Recreation Center on Saturday, January 12, 1985, at 9:30 a.m. in observance of Dr. King's birthday.

Councilman Price moved for the adoption of Ordinance No. 1491. This motion was seconded by Councilman Boland.

On a roll call vote of 7-0, Ordinance No. 1491 passed on first reading.

In response to Mr. Freck, Mr. Moore noted that any work done on 48 Blalock Street would require a building permit.

PUBLIC HEARING - SITE PLAN OF THE PROPOSED NEW VANCE ELEMENTARY SCHOOL - SULPHUR SPRINGS ROAD

4. A public hearing was held relative to the site plan of the proposed new Vance Elementary School to be located on Sulphur Springs Road.

Mayor McDevitt said the Asheville Planning and Zoning Commission at a meeting held December 5, 1984, reviewed the site plan of the proposed new Vance Elementary School to be located on Sulphur Springs Road in West Asheville. The plan was prepared by Wood and Cort, Architects, for Asheville City Schools, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of the site plan to City Council subject to compliance with the Erosion Control Ordinance. The Commission further recommended that City Council see whether or not the storm drain system on the lower portion of Harnett Street, below the School, is adequate to support the runoff from the project as it is now and as it is to be constructed. This public hearing was scheduled on December 18, 1984.

Mayor McDevitt opened the public hearing at 5:07 p.m.

The City Clerk presented the notice to the public, setting the time and date for the public hearing, and the affadavit of publication.

Verl Emrick, Director of Planning, said the Planning and Zoning Commission recommended approval of the project subject to compliance of the Erosion Control Ordinance. He said the erosion control plan had been approved by the State. He said the Asheville City School Board is requesting that the City pay for street improvements proposed for Clinton and Harnett Street. He said these street improvements would provide for additional parking for the new school and a bus turnaround. He said the cost for the street improvements is estimated at $122,930.

He said there is an off-site drainage problem on the southwestern portion of the property. He said the City Engineering Department had made an inspection of the drainage problem and estimated the cost of upgrading the system at $40,000. He said at present a 26-inch pipe is emptying into an 18-inch pipe.

Mr. Emrick said the site plan meets all the criteria of the group development section of the zoning ordinance, and all the criteria for State requirements. He said the Fire Department had added a fire hydrant to this area.

Mr. Harold Blankenship of 51 Harnett Street said his dwelling is located directly below the proposed school. He said the drainage system in the area is not sufficient at present. He said Harnett Street is not sufficient to carry the traffic for the new school. He requested that Council look into the possibility of street improvements in the entire area.

At the request of Councilman Boland, Council requested that the City Manager look into the cost to improve the entire area of Harnett Street.

Mayor McDevitt said proceedings have heretofore been instituted in accordance with the provisions of N.C. General Statutes 160A-441 et seq. and the Housing Code of the City of Asheville. A hearing was held, and a Findings of Fact and Order entered finding that the dwellings known as 48 and 53 Blalock Avenue, in their present condition, are dilapidated, unfit for human habitation, unsafe and dangerous to life. These properties are owned by Mr. Ted B. Freck. This public hearing was scheduled on December 18, 1984. Any cost incurred in demolition will be placed as a lien on the property.

Mayor McDevitt opened the public hearing at 4:31 p.m.

The City Clerk presented the notice to the public, setting the time and date for the public hearing, and the affidavit of publication.

Lem Moore, Director of Inspections, said his division had been involved in efforts to bring the dwellings of 48 and 53 Blalock Avenue up to minimum housing code standards since 1979. He said no satisfactory results have been obtained.

He presented a copy of an agreement with Mr. Ted B. Freck, owner of the dwellings, dated May 1984, in which the agreement stated that all corrections would be made to the dwellings by December 1, 1984, or the owner would consent to signing an order to demolish said houses. He said his division had been more than reasonable with the owner to bring the houses up to code standards. He requested that Council proceed with the first reading of the ordinance. He presented photographs of the two dwellings showing that the dwellings were dilapidated, unfit for human habitation, unsafe, and dangerous to life.

Mr. Freck, owner of 48 and 53 Blalock, said he had been working on 48 Blalock Street in order to bring the house up to the minimum code standards. He said he would consent to demolish 53 Blalock Avenue. He said a new roof, inside repair work, and some electrical work had been done at 48 Blalock. He requested that Council give him time to repair 48 Blalock.

Upon inquiry of several Council members, Mr. Freck said that he had already spent $2,000 on 48 Blalock Street and it would take at least $1,000 more to complete the repairs. He said that he could finish the work on 48 Blalock by April or May, provided he could borrow the money to make the repairs.

Upon inquiry of Councilman Bissette, Mr. Moore said a considerable amount of work would have to be done to 48 Blalock Street in order to bring the house into compliance with the housing code. He said the last physical interior inspection of the house was made in 1980. However, the exterior had been monitored since 1979, and no work has been done on the house. He said the Finding of Fact and Order stated that the dwelling value is estimated at $1,855. He listed specific requirements to bring 48 Blalock Street into compliance with the housing code.

Mr. Moore said Council had considered an ordinance in 1980 to demolish the houses which passed on two readings. However, the third reading was tabled indefinitely. He said since four years have elapsed since the reading of the ordinance, it would be necessary, according to the Corporation Counsel, to start over with the process.

Mayor McDevitt closed the public hearing at 5:03 p.m.

Mayor McDevitt said members of Council were furnished copies of the ordinance and it would not be read in its entirety.

RESOLUTION NO. 85-1 - RESOLUTION AUTHORIZING THE MAYOR ON BEHALF OF THE CITY OF ASHEVILLE TO EXECUTE AN AGREEMENT BY AND BETWEEN THE CITY OF ASHEVILLE AND SCHNEIDER NINE, INC. WITH REGARD TO AN AGREEMENT BY AND AMONG THE CITY, THE ADVISORY COUNCIL ON HISTORIC PRESERVATION, AND THE NORTH CAROLINA STATE HISTORIC PRESERVATION OFFICER FOR THE SOUTH PACK PLAZA PROJECT

6. Consideration was given to a resolution authorizing the Mayor on behalf of the City of Asheville to execute an agreement by and between the City of Asheville and Schneider Nine, Inc. with regard to an agreement by and among the City, the Advisory Council on Historic Preservation, and the North Carolina State Historic Preservation Officer for the South Pack Plaza Project.

Mayor McDevitt said the City of Asheville has entered into a Memorandum of Agreement with the Advisory Council on Historic Preservation and the North Carolina State Historic Preservation Officer with regard to compliance with federal regulations for certain historic buildings in the South Pack Plaza Project. This agreement will set forth the responsibilities of the City and Schneider Nine, Inc. with regard to the provisions of the Memorandum of Agreement.

Upon motion of Councilman Frank, seconded by Councilman Price, Resolution No. 85-1 was unanimously adopted.

Complete text of Resolution No. 85-1 will be found in Resolution Book No. 15 at page 129.

RESOLUTION NO. 85-2 - RESOLUTION APPROVING THE MEMORANDUM OF AGREEMENT BETWEEN THE NORTH CAROLINA HISTORIC PRESERVATION OFFICER, THE NATIONAL COUNCIL ON HISTORIC PRESERVATION AND THE CITY OF ASHEVILLE FOR THE SOUTH PACK PLAZA PROJECT

7. Consideration was given to a resolution approving the memorandum of agreement between the North Carolina Historic Preservation Officer, the National Council on Historic Preservation and the City of Asheville for the South Pack Plaza Project.

Mayor McDevitt said the City of Asheville had determined that the South Pack Square Redevelopment Project will have an effect upon properties included in or eligible for inclusion in the National Register of Historic Places and has requested the comments of the Advisory Council on Historic Preservation (Council) pursuant to Section 106 of the National Historic Preservation Act and its implementing regulations, "Protection of Historic and Cultural Properties." The City of Asheville, the North Carolina State Historic Preservation Officer, and the Council agree that the undertaking shall be implemented in accordance with certain stipulations in order to take into account the effect of the undertakings on historic properties. Execution of this agreement will also release CDBG funds for the public improvements agreed to for the Pack Plaza Project. Some cost may be incurred to accomplish the architectural survey. Estimates are in the $6,000 to $10,000 range. However, it is anticipated that the developer of the Pack Plaza Project will reimburse the City for any expenditures -- negotiations are underway. Funds are currently budgeted should they be needed.

Upon motion of Councilman Frank, seconded by Councilman Boland, Resolution No. 85-2 was unanimously adopted.

Complete text of Resolution No. 85-2 will be found in Resolution Book No. 15 at page 130.

Dr. Don Jones, Superintendent of the Asheville City Schools, said the City Board of Education would support total improvements to Harnett Street.

Mayor McDevitt closed the public hearing at 5:30 p.m.

Councilman Bissette moved to approve the site plan for the proposed new Vance Elementary School to be located on Sulphur Springs Road. This motion was seconded by Councilman Boland and carried unanimously.

Councilman Price moved that Council support street improvements as requested by the Asheville City Board of Education on Clinton Street and Harnett Street, subject to bids being received by the City Board of Education, and further that the City staff look into improvements to all of Harnett Street. This motion was seconded by Vice-Mayor Bratton and carried unanimously.

Councilman Price moved that the storm drainage area on Harnett Street be studied and a determination made as to whether the present sewer system is involved; and cost estimates be given for the upgrading of the storm drainage system in order that this area could be considered along with other storm drainage problems in the City. She also requested that contact be made with the State Department of Transportation to determine if any assistance could be given by the State because this is a state-maintained road. This motion was seconded by Councilman Boland and carried unanimously.

ORDINANCE NO. 1492 - BUDGET ORDINANCE AMENDMENT TO ALLOCATE FUNDS FOR THE SMOKY MOUNTAIN MINORITY SUPPLIER DEVELOPMENT COUNCIL

5. Consideration was given to a budget ordinance amendment allocating funds to attend and participate in activities of the Smoky Mountain Minority Supplier Development Council.

Mayor McDevitt said this budget ordinance amendment will transfer $300 from the General Fund Contingency to the Finance Department for the participation in activities of the Smoky Mountain Minority Supplier Development Council. This amount is included in the budget. This action may have a positive impact on the City's use of minority suppliers.

Mayor McDevitt said members of Council were furnished copies of the ordinance and it would not be read in its entirety.

Upon inquiry of Vice-Mayor Bratton, Mayor McDevitt said in his opinion there would not be a conflict of interest in Vice-Mayor Bratton voting on the issue even though she is president of the organization.

Councilman Boland moved for the adoption of Ordinance No. 1492. This motion was seconded by Councilman Myers.

On a roll call vote of 7-0, Ordinance No. 1492 passed on first and final reading.

Complete text of Ordinance No. 1492 will be found in Ordinance Book No. 10 at page 233.

"PETITION TO THE ASHEVILLE CITY COUNCIL TO RESCIND ACTION WHICH CONVERTED KENILWORTH DRIVE FROM AN OPEN, THROUGH STREET TO A DEAD END STREET

WHEREAS, the Asheville City Council's recent action changing one of Kenilworth's newer, much needed and used, twenty-five foot wide, one straight block, open street (Kenilworth Drive) to a dead end street in an effort to deter through traffic and to protect from the traffic a small child resident and other children who may come to reside in this area; and

WHEREAS, this drive was used by Kenilworth residents as the quickest, safest, and only access to Biltmore Avenue at a traffic signal; and the closing of the short, straight through route detours the traffic to two longer, winding blocks less safe to travel; and

WHEREAS, it has been almost two months since Kenilworth Drive was dead ended, no noticeable decrease in traffic has been observed; of course, the travel time and distance for all the traffic has increased; and

WHEREAS, the City has much more effective methods of improving traffic safety and deterring through traffic than dead ending streets; and

THEREFORE, we, the undersigned Kenilworth residents and friends who use the Kenilworth Drive as an open street, hereby respectfully petition the Asheville City Council to immediately rescind its action to dead end Kenilworth Drive and restore it to full use as an open drive.

RATIONALE
FOR THE OBJECTION TO THE DEAD ENDING OF KENILWORTH DRIVE

1. It is regressive, uneconomical, and unfair to reroute the traffic from the newer, twenty-five foot wide, straight, one short block drive to the two longer, winding blocks of the oldest streets in Kenilworth, all of which must be maintained by the taxpayers, including the drive which they are not priviledged to use; the building of Kenilworth Drive was a progressive step to open the area for residential development, emergency services, and the convenience of the residents, visitors and services; but not as a private drive.

2. With the closing of the drive from Pickwick Road, there is no way for visitors, city services, fuel and postal and other services to get out of Pickwick Road other than by backing out or making a road turn either of which is dangerous on the narrow, winding street with its low, deep shoulders. Of course, the city garbage truck backs into a red clay vacant lot, making red clay ruts, a foot or more deep, and tracks the mud all the way up Pickwick Road to Kenilworth Road.

AUTHORIZATION FOR CORPORATION COUNSEL TO SIGN "APPLICATION FOR DISBURSEMENT OF DEPOSIT" - DEPARTMENT OF TRANSPORTATION, PLAINTIFF, VS WILLIAM JAMES FERENCE AND WIFE MAXINE FERENCE, COUNTY OF BUNCOMBE AND CITY OF ASHEVILLE

Councilman Bissette requested that he be excused from voting on a motion to authorize the Corporation Counsel to sign the "Application for Disbursement of Deposit" in that his law partner, Charles Worley, is involved in the action.

Councilman Boland moved to excuse Councilman Bissette from voting on the authorization of the Corporation Counsel to sign the "Application for Disbursement of Deposit." This motion was seconded by Councilman Frank and carried unanimously.

Councilman Price moved to authorize the Corporation Counsel to sign an "Application for Disbursement of Deposit" in Civil Action 84-CVS-3044 entitled "Department of Transportation, Plaintiff VS William James Ference and wife Maxine Ference, County of Buncombe and City of Asheville" requesting the court disburse the sum of $67,400 to William James Ference and wife Maxine Ference upon confirmation that all real estate ad valorem taxes through 1984 have been paid upon the property which is the subject matter of that civil action. This motion was seconded by Councilman Frank and carried unanimously.

CLAIMS - KATHLEEN JACKSON (STREETS) - JAN BRYANT (METER READERS) - VIRGINIA SANDERS (SANITATION) - CLARENCE McCORSLEY (STREETS) - SOUTHERN BELL (WATER) - MOLLY SANDERS (WATER) - HOWARD COLLINS (WATER) - CHARLES HARRELL ASSOCIATES (WATER) - JUSTINE LAVIN (STREETS)

The City manager presented claims received from Kathleen Jackson (Streets), Jan Bryant (Meter Readers), Virginia Sanders (Sanitation), Clarence McCorsley (Streets), Southern Bell (Water), Molly Sanders (Water), Howard Collins (Water), Charles Harrell Associates (Water), and Justine Lavin (Streets).

Mayor McDevitt referred the claims to the Corporation Counsel for investigation and recommendation.

LAWSUITS - C. M. McCRACKEN, ADMINISTRATOR OF ESTATE OF JAMES C. BRIGMAN - (PETITION TO ALLOW SALE OF PROPERTY - CITY SERVED BECAUSE OF TAXES DUE) - LORETTA THURMOND VS ROBERT BOONE MOODY (PERSONAL INJURY - AUTO ACCIDENT) - D.O.T. VS JOHN P. HOLT (CONDEMNATION - BRIDGE OVER SOUTHERN RAILWAY ON MEADOW ROAD) - ASHEVILLE HOUSING AUTHORITY (CONDEMNATION OF LESTER CALDWELL PROPERTY)

The City Manager said the City was served with summonses in connection with lawsuits involving C. M. McCracken, Administrator of Estate of James C. Brigman, Loretta Thurmond VS Robert Boone Moody, D.O.T. VS John P. Holt, and Asheville Housing Authority.

Mayor McDevitt referred the summonses to the Corporation Counsel for investigation and recommendation.

MRS. CATHERINE JOHNSON - 29 DEVONSHIRE PLACE - PETITION TO OPEN KENILWORTH DRIVE

Mrs. Catherine Johnson of 29 Devonshire Place presented a petition, with 203 signatures requesting that the Asheville City Council immediately rescind its action to dead end Kenilworth Drive and restore it to its full use as an open drive.

Mayor McDevitt said the City Council would look into the request stated in the petition and would be in touch with Mrs. Johnson.

Tuesday - January 15, 1985 - 4:00 p.m.

Regular Meeting

Present: Mayor Larry McDevitt, Presiding; Vice-Mayor Wilhelmina Bratton; Councilmen Mary Lloyd Frank, Norma T. Price, Gordon Myers, Walter R. Boland, and Louis Bissette; Corporation Counsel William F. Slawter; City Manager, Neal Creighton; William F. Wolcott, Jr., Associate City Manager/City Clerk

Absent: None

INVOCATION

The invocation was given by Mayor Larry McDecitt.

APPROVAL OF THE MINUTES

1. Approval of the minutes of the January 8, 1985 meeting.

Mayor McDevitt announced the approval of the minutes of the January 8, 1985, meeting as submitted.

PROCLAMATION - WEEK OF JANUARY 21, 1985 - "INDUSTRY APPRECIATION WEEK"

Mayor McDevitt read a proclamation proclaiming the week of January 21, 1985, as "Industry Appreciation Week".

PUBLIC HEARING - REZONING PROPERTY LOCATED AT 666 MERRIMON AVENUE -DR. PAUL MICHALOVE

ORDINANCE NO. 1493 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE, AS AMENDED" - PROPERTY LOCATED AT 666 MERRIMON AVENUE (DR. PAUL MICHALOVE PETITION)

2. A public hearing was held relative to rezoning property located at 666 Merrimon Avenue, Ward 9, Sheet 8, Lots 7-3/4 from R-3 Residential District to CH Commercial Highway District (requested for Dr. Paul Michalove by Ridgley Robinson, Agent).

Mayor McDevitt said the Asheville Planning and Zoning Commission at a meeeting held December 5, 1984, considered the request of Dr. Paul Michalove by Ridgley Robinson, Agent, that Ward 9, Sheet 8, Lot 7-3/4 be rezoned from R-3 Residential District to CH Commercial Highway District. The property is located at 666 Merrimon Avenue. After review and discussion, the Commission voted to recommend to City Council that Ward 9, Sheet 8, Lot 7-3/4 be rezoned from R-3 Residential District to CH Commercial Highway District.

Mayor McDevitt opened the public hearing at 4:16 p.m.

The City Clerk presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

3. We do not know of any surveys that have been made to determine the amount of through traffic that has been traveling Kenilworth Drive. If, indeed, there is such traffic which should be deterred, it would seem that a better deterrence would be the reduction of speed limit in both directions. A speed limit on Pickwick Road above twenty miles per hour is dangerous. There is a need for "Children Playing" caution signs in the first and second blocks of Kenilworth Road and at the entrance of Kenilworth Drive. The enforcement of the "No Thru Trucks" could also serve as a deterrence. With such remedial measures as these available, we see no reason to resort to such a backward step as dead ending a much needed open street."

RALPH BISHOP - LOTTERY SALES IN THE CITY OF ASHEVILLE

Ralph Bishop again spoke to members of Council relative to lottery sales in the City of Asheville.

REQUEST TO RESCIND ACTION TO DEMOLISH 37 EAST CHESTNUT STREET - ATTORNEY BILL BARNES

Attorney Bill Barnes, representing Mrs. Carl Fletcher, requested that Council instruct the Director of Inspections to hold off demolishing 37 East Chestnut Street for at least one week. He said this would give the owner an opportunity to put into a trust fund the amount needed to bring the house up to minimum housing code standards.

Mayor McDevitt informed Mr. Barnes that this request had been made many many times by Mrs. Fletcher to no avail to bring the house up to code standards.

After discussion, Council took no action Mr. Barnes' request.

ADJOURNMENT

Councilman Bissette moved to adjourn the meeting at 6:15 p.m. This motion was seconded by Councilman Myers and carried unanimously.

COUNCIL WORK SESSION - THURSDAY, JANUARY 10, 1985 - 5:30 P.M.

Mayor McDevitt reminded members of Council that a Council work session had been scheduled for Thursday, January 10, 1985, at 5:30 p.m. to discuss the "Comprehensive Plan."

Lee McDevitt
MAYOR

Frances F. McDevitt
CITY CLERK

Mayor McDevitt said the City desires to create a Deferred Payment Loan Program to serve as an incentive to investor owners to participate in the Rental Rehabilitation Program by eliminating the "gap" between the debt service, property management expenses, and fair market rents. The Deferred Payment Loan Program will be in keeping with rules and regulations of the Department of Housing and Urban Development and will be secured by Deeds of Trust to insure the compliance of the program participants with the objectives of the program. This resolution will create the program using Rental Rehabilitation Program Grant funds and other rehabilitation loan funds as available from the existing loan pool to participate in the Department of Housing and Urban Development Rental Rehabilitation Program as provided for in the Housing and Urban-Rural Recovery Act of 1983. The resolution will also authorize the Mayor to execute on behalf of the City of Asheville the necessary Memorandum of Understanding by and between the City of Asheville and the Housing Authority concerning the Rental Rehabilitation Program. Funding already available through the existing Community Development rehabilitation loan pool project.

Mayor McDevitt said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Frank, seconded by Councilman Price, Resolution No. 84-3 was unanimously adopted.

Complete text of Resolution No. 84-3 will be found in Resolution Book No. 15 at page 131-132.

RESOLUTION NO. 84-4 - RESOLUTION APPOINTING MEMBER TO THE ASHEVILLE/BUNCOMBE WATER AUTHORITY (RALPH D. MORRIS, JR.)

5. Consideration was given to a resolution reappointing Mr. Ralph D. Morris, Jr. as a member of the Asheville/Buncombe Water Authority.

Mayor McDevitt said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Bissette, seconded by Councilman Frank, Resolution No. 84-4 was unanimously adopted.

Complete text of Resolution No. 84-4 will be found in Resolution Book No. 15 at page 133.

RESOLUTION NO. 84-5 - RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT BY AND BETWEEN KEITH E. HARWOOD AND WIFE, DEBORAH JOAN HARWOOD, OWNERS OF 37 EAST CHESTNUT STREET, ASHEVILLE, NORTH CAROLINA, AND THE CITY OF ASHEVILLE

6. Consideration was given to a resolution authorizing the Mayor to enter into an agreement by and between Keith E. Harwood and wife, Deborah Joan Harwood, owners of 37 East Chestnut Street, Asheville, North Carolina, and the City of Asheville.

Verl Emrick, Director of Planning, said the proposed use for the property would be parking for an existing business. He said no opposition had been received from property owners in the area. He said, however, concerns were voiced that a sidewalk was needed in this particular area.

Dr. Paul Michalove, petitioner, spoke in support of the rezoning. By a use of a map, Dr. Michalove showed members of Council the property requested to be rezoned.

After discussion, Mayor McDevitt noted that the City Manager would be looking into the feasibility of installing a sidewalk in this area. He requested that the City Manager obtain cost figures for installing the sidewalks. He said Council would be in contact with the property owners in the area relative to the sidewalk installation.

Mr. Ridgley Robinson, Agent for the petitioner, spoke in support of the rezoning, stating that in his opinion, the only logical use of the property would be commercial. He said the property owners in the immediate area are in favor of the rezoning.

After discussion, Mayor McDevitt closed the public hearing at 4:31 p.m.

Mayor McDevitt said members of Council were furnished copies of the ordinance and it would not be read in its entirety.

Vice-Mayor Bratton moved for the adoption of Ordinance No. 1493. This motion was seconded by Councilman Bissette.

On a roll call vote of 7-0, Ordinance No. 1493 passed on first reading.

ORDINANCE NO. 1491 - AN ORDINANCE DIRECTING THE DIRECTOR OF INSPECTIONS TO DEMOLISH AND REMOVE THE DWELLINGS KNOWN AS 48 AND 53 BLALOCK AVENUE, ASHEVILLE, NORTH CAROLINA

3. Consideration was given to the second reading of Ordinance No. 1491, an ordinance directing the Director of Inspections to demolish and remove the dwellings known as 48 and 53 Blalock Avenue, Asheville, North Carolina.

Mayor McDevitt said this ordinance was previously read on first reading and would not be reread in its entirety unless there was a specific request to do so.

On a roll call vote of 7-0, Ordinance No. 1491 passed on second reading.

RESOLUTION NO. 84-3 - RESOLUTION ESTABLISHING A RENTAL REHABILITATION DEFERRED PAYMENT LOAN PROGRAM

4. Consideration was given to a resolution establishing a Rental Rehabilitation Deferred Payment Loan Program.

REQUEST FOR REPORT - OPENING OF WALKWAY THROUGH THE ASHEVILLE/BUNCOMBE LIBRARY TO HAYWOOD STREET FROM PARKING GARAGE

Councilman Price requested that the City Manager look into the possibility of the Asheville/Buncombe Library hallway being opened from the Parking Garage to Haywood Street during Civic Center events. She also requested that a report be given to Council when this action is taken.

ADJOURNMENT

Councilman Boland moved to adjourn the meeting at 5:00 p.m. This motion was seconded by Councilman Bissette and carried unanimously.

Tom McDevitt
MAYOR

William F. Valentine
CITY CLERK

Lem Moore, Director of Inspections, said on December 11, 1984, the Asheville City Council passed Ordinance No. 1486, which ordered the Director of Inspections to demolish and remove the apartment house known as 37 E. Chestnut Street. He said on January 14, 1985, Keith E. Harwood and wife Deborah Joan Harwood purchased the property located at 37 E. Chestnut Street and are now the record owners of the property as reflected in a recorded deed in the Register of Deeds office for the County of Buncombe. He said Mr. Harwood desires and intends to complete any and all rehabilitation work necessary for the issuance of a Certificate of Occupancy under the Housing Code of the City of Asheville. He said Mr. Harwood has agreed to enter into an agreement with the City of Asheville to rehabilitate the apartment house located at 37 E. Chestnut Street. He said the agreement will provide that on or before the 15th day of April, 1985, Mr. Harwood will cause the apartment house to be brought into compliance with the North Carolina State Building Code and the Minimum Housing Code of the City of Asheville.

Mr. Barnes, Attorney, spoke in support of the adoption of the resolution.

Mayor McDevitt was excused from the meeting and Vice-Mayor Bratton presided.

Vice-Mayor Bratton read the resolution.

Upon motion of Councilman Boland, seconded by Councilman Price, Resolution No. 85-5 was unanimously adopted.

Complete text of Resolution No. 85-5 will be found in Resolution Book No. 15 at Page 134.

CLAIMS - MARGARET HOLDER (WATER) - ELIZABETH BALLARD (WATER) - DONNA THOMAS (SANITATION) - SOUTHERN BELL (WATER) - NORTH CAROLINA DEPARTMENT OF TRANSPORTATION (WATER)

The City Manager presented claims received from Margaret Holder (Water) - Elizabeth Ballard (Water) - Donna Thomas (Sanitation) - Southern Bell (Water) and the North Carolina Department of Transportation (Water).

Vice-Mayor Bratton referred the claims to the Corporation Counsel for investigation and recommendation.

ANNOUNCEMENT OF RETIREMENT OF WILLIAM "BILL" DeBRUHL - DIRECTOR OF WATER AND SEWER SERVICES

The City Manager announced the retirement of William "Bill" DeBruhl, Director of Water and Sewer Services effective February 28, 1985.

REQUEST FOR REPORT - CITY HALL SNACK SHOP BIDS

Vice-Mayor Bratton requested that the City Manager give members of Council a full briefing, next week, on the procedure for obtaining vendors for the City Hall Snack Shop. She said she had received a number of telephone calls relative to this procedure.

On a roll call vote of 7-0, Ordinance No. 1491 passed on third reading.

Complete text of Ordinance No. 1491 will be found in Ordinance Book No. 10 at page 231-232.

ORDINANCE NO. 1494 - AN ORDINANCE AMENDING SECTIONS 28-81.5(5) AND 28-81.6(22) OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE TO REDUCE THE SPEED LIMIT ON A PORTION OF HENDERSONVILLE ROAD

4. Consideration was given to an ordinance amending Sections 28-81.5(5) and 28-81.6(22) of the Code of Ordinances of the City of Asheville to reduce the speed limit on a portion of Hendersonville Road.

Mayor McDevitt said the purpose of this ordinance is to pass a concurring ordinance with the North Carolina Department of Transportation to reduce the speed limit on Hendersonville Road, between Rock Hill Road and the Blue Ridge Parkway, from 45 m.p.h. to 35 m.p.h.

Mayor McDevitt said members of Council were furnished copies of the ordinance and it would not be read in its entirety.

Councilman Boland moved for the adoption of Ordinance No. 1494. This motion was seconded by Councilman Price.

On a roll call vote of 7-0, Ordinance No. 1494 passed on first reading.

RESOLUTION NO. 85-6 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE ON BEHALF OF THE CITY OF ASHEVILLE A CONTRACT AND ANY CHANGE ORDERS WITHIN THE BUDGETED AMOUNT WITH BLUE RIDGE STRUCTURE COMPANY FOR THE PROJECT KNOWN AS KILLIAN ROAD BRIDGE REPLACEMENT PROJECT

5. Consideration was given to a resolution authorizing the Mayor to execute on behalf of the City of Asheville a contract and any change orders within the budgeted amount with Blue Ridge Structure Company for the project known as Killian Road Bridge Replacement Project.

Mayor McDevitt said Killian Road Bridge is located upon a City street and is in need of replacement due to its age and present condition. This resolution will authorize a contract with Blue Ridge Stucture Company for removal and replacement of the Killian Road Bridge over Beaverdam Creek. Bridge replacement funds are available for the Killian Road Bridge project. This project will complete the bridges that will be replaced with these funds.

The City Clerk presented the bids received on the Killian Road Bridge Replacement Project as follows:

COMPANY	BID
Miller Engineering	$120,067.60
Taylor Murphy Construction Co.	89,560.00
Apple Tuck	99,840.00
Buchannon Concrete Co.	68,892.00
Hobson Construction Co.	99,145.00
Blue Ridge Structure Co.	67,372.00

Tuesday - January 22, 1985 - 4:00 p.m.

Regular Meeting

Present: Mayor Larry McDevitt, Presiding; Vice-Mayor Wilhelmina Bratton; Councilmen Mary Lloyd Frank, Norma T. Price, Gordon Myers, Walter R. Boland, and Louis Bissette; Corporation Counsel William F. Slawter; City Manager Neal Creighton; Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: None

INVOCATION

The invocation was given by Vice-Mayor Wilhelmina Bratton.

APPROVAL OF THE MINUTES - JANUARY 15, 1985 MEETING

1. Approval of the minutes of the January 15, 1985, meeting.

Mayor McDevitt announced the approval of the minutes of the January 15, 1985, meeting as submitted.

ORDINANCE NO. 1493 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED - PROPERTY LOCATED AT 666 MERRIMON AVENUE (DR. PAUL MICHALOVE PETITION)

2. Consideration was given to the second reading of Ordinance No. 1493, an ordinance amending Ordinance No. 322, known as "An ordinance providing for the zoning of the City of Asheville," as amended - property located at 666 Merrimon Avenue (Dr. Paul Michalove Petition).

Mayor McDevitt said this ordinance was previously read on first and second reading and would not be reread in its entirety unless there was a specific request to do so.

On a roll call vote of 7-0, Ordinance No. 1493 passed on second reading.

ORDINANCE NO. 1491 - AN ORDINANCE DIRECTING THE DIRECTOR OF INSPECTIONS TO DEMOLISH AND REMOVE THE DWELLINGS KNOWN AS 48 AND 53 BLALOCK AVENUE, ASHEVILLE, NORTH CAROLINA

3. Consideration was given to the third reading of Ordinance No. 1491, an ordinance directing the Director of Inspections to demolish and remove the dwellings known as 48 and 53 Blalock Avenue, Asheville, North Carolina.

Mayor McDevitt said this ordinance was previously read on first and second reading and would not be reread in its entirety unless there was a specific request to do so.

Upon inquiry of members of Council, the City Manager said no communication had been received from the owners of 48 and 53 Blalock Avenue relative to the rehabilitation of those dwellings. Mr. Harold Garland, Assistant Director of Inspections, said no work had been done on these dwellings as of 2:20 p.m. on January 22, 1985.

Mayor McDevitt said on December 11, 1984, City Council adopted Ordinance No. 1485, City of Asheville Soil Erosion and Sedimentation Control Ordinance, which became effective on the 1st day of January, 1985. This resolution will provide for fees for grading permits. The cost to administer this program is about $30,000 per year, and the anticipated revenue in an average construction year would be estimated around $8,000 - $10,000 per year.

Mayor McDevitt said members of Council were furnished copies of the resolution and it would not be read in its entirety unless there was a specific request to do so.

Tom Tarrant, City Engineer, said he had met with the Western North Carolina Association of Architects, and had contacted others relative to the establishment of the grading permit fees. He said at these meetings no comments were made relative to the proposed fee structure.

Upon motion of Councilman Boland, seconded by Councilman Bissette, Resolution No. 85-8 was unanimously adopted.

Complete text of Resolution No. 85-8 will be found in Resolution Book No. 15 at page 137.

APPROVAL OF THE CONSENT AGENDA

8. Mayor McDevitt said the following items are of a routine nature and they have been previously reviewed by the members of the City Council. Therefore, by unanimous vote to approve these items, City Council may, pursuant to the procedures established in Ordinance No. 1008, adopt all of the items with one motion without the full reading and/or separate motion adopting each individual item. Upon the request of a citizen, a member of City Council, and/or a member of the City staff, any single item scheduled for approval on the consent agenda may be considered separately.

A. Scheduling public hearing relative to a moratorium on new buildings in Haw Creek for February 12, 1985.

At its meeting on January 9, 1985, the Asheville Planning and Zoning Commission after hearing presentation by the Haw Creek Community Association, Inc., voted to recommend to the Asheville City Council that a 90 day moratorium be imposed on all development in the Haw Creek area. The stated purpose for said moratorium is as follows: To allow a study of existing conditions in the neighborhood to determine the ability of utility, roads and street systems to accommodate additional growth. In addition, the Commission recommended that staff study the zoning patterns of the neighborhood along with the ability of the school system to absorb any additional influx of students.

B. Scheduling a public hearing relative to a site plan of the proposed Haw Creek Apartments to be located off Melton Drive in Haw Creek for February 12, 1985.

The Asheville Planning and Zoning Commission, at a meeting held January 9, 1985, reviewed the site plan of the proposed Haw Creek Apartments to be located off Melton Drive in Haw Creek. The plan was prepared by Larry Traber, Architect, for Mike Summey, Developer, and submitted in accordance with the Group Development

Mayor McDevitt said members of Council were furnished copies of the resolution and it would not be read in its entirety unless there was a specific request to do so.

Upon motion of Councilman Frank, seconded by Councilman Boland, Resolution No. 85-6 was unanimously adopted.

Complete text of Resolution No. 85-6 will be found in Resolution Book No. 15 at page 135.

RESOLUTION NO. 85-7 - RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN AN AGREEMENT WITH CRESAP, McCORMICK AND PAGET, INC. FOR A COMPENSATION AND CLASSIFICATION STUDY OF ALL POSITIONS IN THE CITY OF ASHEVILLE ORGANIZATION

6. Consideration was given to a resolution authorizing the City Manager to contract with the consulting firm for a compensation and classification study for the City of Asheville.

Mayor McDevitt said the Asheville City Council appropriated $40,000 for a city-wide compensation and classification pay study. A request for proposals was issued in October, and proposals from five (5) firms were received and analyzed in November. A staff committee recommends that the Council accept the proposal of Cresap, McCormick and Paget, a Washington, D.C.-based consulting firm. The committee requests that City Council authorize the City Manager to enter into a contract in the amount of $40,000 with Cresap, McCormick and Paget. Funds for this study are already budgeted in the FY 84-85 Budget and will be drawn from Revenue Sharing Funds.

Rebecca Ford, with the Cresap, McCormick and Paget, Inc. firm, thanked members of Council for inviting her to participate in the compensation and classification study for the City of Asheville.

Mayor McDevitt said members of Council were furnished copies of the resolution and it would not be read in its entirety unless there was a specific request to do so.

Upon motion of Councilman Price, seconded by Councilman Boland, Resolution No. 85-7 was unanimously adopted.

Complete text of Resolution No. 85-7 will be found in Resolution Book No. 15 at page 136.

Upon inquiry of Mayor McDevitt, Rebecca Ford said a list of policy decisions to be addressed by the Asheville City Council will be sent to the City staff by January 29, 1985.

RESOLUTION NO. 85-8 - RESOLUTION ESTABLISHING GRADING PERMIT FEES PURSUANT TO CITY OF ASHEVILLE ORDINANCE NO. 1487 (CITY OF ASHEVILLE SOIL EROSION AND SEDIMENTATION CONTROL ORDINANCE)

7. Consideration was given to a resolution establishing grading permit fees pursuant to City of Asheville Ordinance No. 1487 (City of Asheville Soil Erosion and Sedimentation Control Ordinance).

Mayor McDevitt requested that the Corporation Counsel advise him by February 12, 1985, as to whether or not he could participate in the discussion and vote on the issue of a moratorium on new buildings in Haw Creek, due to the fact that his law firm represents Mr. Mike Summey, who is proposing a project in the Haw Creek area. He said he was aware that he would have a conflict of interest on the particular issue of Mr. Mike Summey's proposal for apartments to be located off Melton Drive. However, unless otherwise instructed by the Corporation Counsel, it would be his opinion that he would not be prohibited from participating in the discussion and vote on the moratorium issue.

Mayor McDevitt noted that the public hearings relative to the moratorium on new buildings in Haw Creek, the proposed Haw Creek Apartments to be located off Melton Drive in Haw Creek, and the proposed apartment complex on Beverly Road, scheduled for February 12, 1985, would be held at the Asheville Civic Center in the Banquet Room on Haywood Street.

Councilman Bissette requested that the Corporation Counsel determine whether he would have a conflict of interest in the participation and the vote regarding the moratorium on new buildings in Haw Creek since he has a financial interest in an approved project in the Haw Creek area. He did say: however, that he would ask to be excused from participation and voting on the proposed rezoning of property located on Rock Hill Road requested by the Carolina Power and Light Company since his firm represents Carolina Power and Light Company.

Upon inquiry of Councilman Boland, the City Manager said a study of the zoning patterns in the neighborhood, along with the ability of the school system to absorb additional influx of students in the Haw Creek area is presently under way by the Planning and Zoning Commission: however, he did not feel this study would be completed by the public hearing date of February 12, 1985.

PROCLAMATION - "CATHOLIC SCHOOLS WEEK" - WEEK OF FEBRUARY 3-9, 1985

Mayor McDevitt proclaimed the week of February 3-9, 1985, as "Catholic Schools Week."

CLAIMS - CARRIE McCURRIE (WATER) - PAT LACKEY (PARKS AND RECREATION) - EUGENE WILLIAMS (SEWER) - DONNA LIVINGSTON (POLICE)

The City Manager presented claims received from Carrie McCurrie, Pat Lackey, Eugene Williams, and Donna Livingston.

Mayor McDevitt referred the claims to the Corporation Counsel for investigation and recommendation.

ADJOURNMENT

Councilman Bissette moved to adjourn the meeting at 4:45 p.m. This motion was seconded by Councilman Boland and carried unanimously.

Larry McDevitt
MAYOR

William F. Malcolm
CITY CLERK

Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend to City Council that approval of the project be denied.

C. Scheduling a public hearing relative to a site plan for an apartment complex on Beverly Road for February 12, 1985.

The Asheville Planning and Zoning Commission at a meeting held January 9, 1985, reviewed the site plan of a proposed 34-unit apartment complex to be located on Beverly Road. The plan was prepared by Ashley Engineering for Mr. Harry Lerner, Developer, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of the site plan to City Council subject to compliance with the Erosion Control Ordinance.

D. Scheduling public hearing relative to rezoning property located on Rock Hill Road from R-1 Residential District to LI Light Industrial District on February 19, 1985.

The Asheville Planning and Zoning Commission at a meeting held January 9, 1985, considered the request of Carolina Power & Light Company by Douglas Thigpen, Attorney, that Ward 7, Sheet 56, Lot 56, be rezoned from R-1 Residential District to LI Light Industrial District. The property is located on Rock Hill Road. After review and discussion, the Commission voted to recommend to City Council that Ward 7, Sheet 56, portion of Lot 56, be rezoned from R-1 Residential District to LI Light Industrial District.

E. Scheduling a public hearing relative to a site plan of the proposed South Mountain Medical, Inc. located in Sweeten Creek Industrial Park for February 19, 1985.

The Asheville Planning and Zoning Commission at a meeting held January 9, 1985, reviewed the site plan of the proposed South Mountain Medical, Inc. industry to be located in Sweeten Creek Industrial Park. The plan was prepared by Danie Johnson, Architect, for Joden Properties, Inc., Developer, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of the site plan to City Council subject to compliance with the Erosion Control Ordinance.

F. Scheduling a public hearing for a site plan of a proposed Mobile Home Park to be located on Sand Hill Road for February 19, 1985.

The Asheville Planning and Zoning Commission at a meeting held January 9, 1985, reviewed the site plan of a proposed Mobile Home Park to be located on Sand Hill Road. The plan was prepared by Frank McGahren, Engineer, for Tom Pinkerton, Developer, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of the amended plan to City Council subject to compliance with the Erosion Control Ordinance.

Upon motion of Councilman Bissette, seconded by Vice-Mayor Bratton, the consent agenda was unanimously approved.

On a roll call vote of 6-0, Ordinance No. 1494 passed on second reading.

RESOLUTION NO. 85-9 - RESOLUTION AUTHORIZING THE MAYOR TO SIGN A CONTRACT FOR FIRE PROTECTION SERVICES WITH THE VETERANS ADMINISTRATION MEDICAL CENTER AT OTEEN

4. Consideration was given to a resolution authorizing the Mayor to sign a contract for fire protection services with the Veterans Administration Medical Center at Oteen.

Mayor McDevitt said the present agreement with VA Medical Center expires on January 31, 1985. The City staff and the local VA staff have negotiated a contract which expires September 30, 1985. The annual fee for the period from date of award through September 30, 1985, is $150,004.00. This revenue is already included in the FY '85 budget.

Mayor McDevitt said members of council were furnished copies of the resolution and it would not be read in its entirety unless there was a specific request to do so.

Upon motion of Councilman Bissette, seconded by Councilman Frank, Resolution No. 85-9 was unanimously adopted.

Complete text of Resolution No. 85-9 will be found in Resolution Book No. 15 at page 138.

RESOLUTION NO. 85-10 - RESOLUTION OF INTENT TO CONSIDER AN ORDINANCE AMENDING THE CHARTER OF THE CITY OF ASHEVILLE REGARDING THE SELECTION OF MAYOR AND SCHEDULING A PUBLIC HEARING ON THE PROPOSED AMENDMENTS

5. Consideration was given to a resolution of intent to consider an ordinance amending the Charter of the City of Asheville regarding the selection of Mayor and scheduling a public hearing on the proposed amendments for February 26, 1985.

Mayor McDevitt said Resolution No. 83-209 relative to the process for election of the Mayor was unanimously adopted by the City Council of the City of Asheville on December 6, 1983, and said Resolution provided that the City Council go on record endorsing the concept of examining the feasibility of the present process of being elected by the seven (7) members of the City Council. The City Council has continued to examine the feasibility of the direct election of the Mayor by all of the qualified voters of the City. This resolution will schedule a public hearing on February 26, 1985, to afford the people of the City of Asheville the opportunity to voice their opinion on the Direct Election of Mayor proposal.

Mayor McDevitt said members of Council were furnished copies of the resolution and it would not be read in its entirety unless there was a specific request to do so.

Council instructed the Corporation Counsel to determine what action would have to be taken to require the Mayor to vote if the Mayor is directly elected by the people. They also requested that the Corporation Counsel include in the ordinance all other Charter changes that would be affected by the direct election of the Mayor. He was also instructed to determine what procedure a Council would follow for succession if something happened to a current Mayor.

Tuesday - January 29, 1985 - 4:00 p.m.

Regular Meeting

Present: Mayor Larry McDevitt, Presiding; Vice-Mayor Wilhelmina Bratton; Councilmen Mary Lloyd Frank, Gordon Myers, Walter R. Boland, and Louis Bissette; Corporation Counsel William F. Slawter; City Manager Neal Creighton; Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Councilman Norma T. Price.

INVOCATION

The invocation was given by Councilman Gordon Myers.

APPROVAL OF THE MINUTES - JANUARY 22, 1985 MEETING

1. Approval of the minutes of the January 22, 1985 meeting.

Mayor McDevitt announced the approval of the minutes of the January 22, 1985 meeting as submitted.

ORDINANCE NO. 1493 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED - PROPERTY LOCATED AT 666 MERRIMON AVENUE (DR. PAUL MICHALOVE PETITION)

2. Consideration was given to the third reading of Ordinance No. 1493, an ordinance amending Ordinance No. 322, known as "An ordinance providing for the zoning of the City of Asheville," as amended - property located at 666 Merrimon Avenue (Dr. Paul Michalove Petition).

Mayor McDevitt said this ordinance was previously read on first and second reading and would not be reread in its entirety unless there was a specific request to do so.

On a roll call vote of 6-0, Ordinance No. 1493 passed on third and final reading.

Complete text of Ordinance No. 1493 will be found in Ordinance Book No. 10 at page 234-235.

ORDINANCE NO. 1494 - AN ORDINANCE AMENDING SECTION 28-81.5(5) AND 28-81.6(22) OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE TO REDUCE THE SPEED LIMIT ON A PORTION OF HENDERSONVILLE ROAD

3. Consideration was given to the second reading of Ordinance No. 1494, an ordinance amending Section 28-81.5(5) and 28-81.6(22) of the Code of Ordinances of the City of Asheville to reduce the speed limit on a portion of Hendersonville Road.

Mayor McDevitt said this ordinance was previously read on first reading and would not be reread in its entirety unless there was a specific request to do so.

Mayor McDevitt read the resolution.

Upon motion of Councilman Boland, seconded by Councilman Bissette, Resolution No. 85-12 was unanimously adopted.

Complete text of Resolution No. 85-12 will be found in Resolution Book No. 15 at page 141. 142 none

RESOLUTION NO. 85-13 - RESOLUTION AMENDING RESOLUTION NO. 84-238 PROVIDING FOR THE CONTINUATION OF GROUP HEALTH/HOSPITAL INSURANCE TO ELIGIBLE RETIREES OF THE CITY OF ASHEVILLE

8. Consideration was given to a resolution amending Resolution No. 84-238 providing for the continuation of group health/hospital insurance to eligible retirees of the City of Asheville.

Mayor McDevitt said the Asheville City Council on December 11, 1984, adopted Resolution No. 84-238, providing for the continuation of hospital/medical insurance coverage to eligible retired City employees. He said in adopting the resolution the effective date of December, 1984, was established, and the effective date of the resolution was intended to be July 1, 1985. He said this resolution will amend Resolution No. 84-238 to reflect July 1, 1985 as the effective date of the resolution.

Mayor McDevitt read the resolution.

Upon motion of Councilman Boland, seconded by Councilman Frank, Resolution No. 85-13 was unanimously adopted.

Complete text of Resolution No. 85-13 will be found in Resolution Book No. 15 at page 142. 143 none

RESOLUTION NO. 85-14 - RESOLUTION APPOINTING MEMBER TO THE ASHEVILLE TREE COMMISSION (DR. J. P. LOWELL ORBISON)

9. Consideration was given to a resolution appointing Dr. J. P. Lowell Orbison as a member of the Asheville Tree Commission to serve the unexpired term of Dr. Joseph R. Kole, term expiring August 1, 1986, or until his successor is duly appointed and qualified.

Mayor McDevitt said read the resolution.

Upon motion of Councilman Frank, seconded by Councilman Myers, Resolution No. 85-14 was unanimously adopted.

Complete text of Resolution No. 85-14 will be found in Resolution Book No. 15 at page 143. 144 none

CLAIMS - CAROL POYNTER (SEWER) - MRS. GEORGE BAUGH (SEWER) - MRS. JOHN WILKENSON (WATER) - DOYLE KELLER (WATER)

The City Manager presented claims received from Carol Poynter, Mrs. George Baugh, Mrs. John Wilkenson, and Doyle Keller.

Corporation Counsel Slawter told members of Council that he would try to have their answers by February 5, 1985, at the Pre-Council meeting.

Councilman Myers said good representation from the citizens of Asheville would be needed during this public hearing, since this important issue would have a significant impact on City Hall. He said all citizens need to voice their opinion, pro or con, on the direct election of the Mayor.

Upon motion of Councilman Frank, seconded by Councilman Myers, Resolution No. 85-10 was unanimously adopted.

Complete text of Resolution No. 85-10 will be found in Resolution Book No. 15 at page ~~139.~~ 140.

RESOLUTION NO. 85-11 - RESOLUTION AUTHORIZING THE DIRECTOR OF PARKS, RECREATION, AND PUBLIC FACILITIES TO SIGN AN APPLICATION FOR GRANT FUNDS FROM THE NORTH CAROLINA ARTS COUNCIL

6. Consideration was given to a resolution authorizing the Director of Parks, Recreation, and Public Facilities to sign an application for grant funds from the North Carolina Arts Council.

Mayor McDevitt said this resolution will authorize the filing of an application for grant funds in the amount of $4,440.00 from the North Carolina Arts Council and the Community Arts Council of Western North Carolina through the Grassroots Arts Program. These funds will establish several cultural programs in recreation centers and strengthen the July 4 celebration by adding performances by local art performers. These grant funds are not currently included in the budget. There will be some expense on the part of the City because a certain amount of time by existing staff will be spent in administering the project.

Mayor McDevitt said members of Council were furnished copies of the resolution and it would not be read in its entirety unless there was a specific request to do so.

Upon motion of Councilman Frank, seconded by Councilman Myers, Resolution No. 85-11 was unanimously adopted.

Complete text of Resolution No. 85-11 will be found in Resolution Book No. 15 at page ~~140.~~ 141.

RESOLUTION NO. 85-12 - RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN AN AGREEMENT FOR THE LEASE OF TWO (2) AUXILIARY SCOREBOARDS FOR THE ASHEVILLE CIVIC CENTER

7. Consideration was given to a resolution authorizing the City Manager to sign an agreement for the lease of two (2) auxiliary scoreboards for the Asheville Civic Center.

Mayor McDevitt said the Asheville Civic Center is attempting to increase usage in the area of sports programming, and in 1984 the Civic Center hosted several basketball events, the most notable of which was the 1984 Southern Conference Tournament. He said during these events scoreboard sight line problems prevented portions of the audience from being able to view the time and score information on the scoreboard. He said to eliminate this problem, it is necessary to lease two (2) auxiliary scoreboards and to install them in strategic locations. He said this resolution would authorize the City Manager to execute an agreement for the lease of the said scoreboards.

Tuesday - February 5, 1985 - 4:00 p.m.

Regular Meeting

Present: Mayor Larry McDevitt, Presiding; Vice-Mayor Wilhelmina Bratton; Councilmen Mary Lloyd Frank, Norma T. Price, Gordon Myers, Walter R. Boland, and Louis Bissette; Corporation Counsel William F. Slawter; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: City Manager Neal Creighton

INVOCATION

The invocation was given by Councilman Mary Lloyd Frank.

APPROVAL OF MINUTES - JANUARY 29, 1985 MEETING

1. Approval of the minutes of the January 29, 1985 meeting.

Mayor McDevitt announced the approval of the minutes of the January 29, 1985 meeting as submitted.

ORDINANCE NO. 1494 - AN ORDINANCE AMENDING SECTION 28-81.5 (5) and 28-81.6 (22) OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE TO REDUCE THE SPEED LIMIT ON A PORTION OF HENDERSONVILLE ROAD

2. Consideration was given to the third reading of Ordinance No. 1494, an ordinance amending Section 28-81.5 (5) and 28-81.6 (22) of the Code of Ordinances of the City of Asheville to reduce the speed limit on a portion of Hendersonville Road.

Mayor McDevitt said the purpose of this ordinance is to pass a concurring ordinance with the North Carolina Department of Transportation to reduce the speed limit on Hendersonville Road, between Rock Hill Road and the Blue Ridge Parkway, from 45 m.p.h. to 35 m.p.h. This ordinance was read on first reading on January 22, 1985, and on second reading on January 29, 1985.

Mayor McDevitt said this ordinance was previously read on first and second reading and would not be reread in its entirety unless there was a specific request to do so.

On a roll call vote of 7-0, Ordinance No. 1494 passed on third and final reading.

Complete text of Ordinance No. 1494 will be found in Ordinance Book No. 10 at page 236.

ORDINANCE NO. 1495 - BUDGET ORDINANCE AMENDMENT PROVIDING MATCHING FUNDS FOR REPAIRS TO STREETS IN THE ASHEVILLE HOUSING AUTHORITY HOUSING DEVELOPMENTS PRIOR TO DEDICATION TO THE CITY

3. Consideration was given to a budget ordinance amendment to provide matching funds for repairs to streets in Asheville Housing Authority housing developments prior to dedication to the City.

Mayor McDevitt referred the claims to the Corporation Counsel for investigation and recommendation.

ADJOURNMENT TO EXECUTIVE SESSION

Councilman Boland moved to adjourn to Executive Session to discuss a real estate and legal matter. This motion was seconded by Councilman Bissette and carried unanimously.

MAYOR

CITY CLERK

ORDINANCE NO. 1497 - BUDGET ORDINANCE AMENDMENT TO ESTABLISH A BUDGET FOR CITY OPERATION OF THE CITY HALL SNACK SHOP

5. Consideration was given to a budget ordinance amendment to establish a budget for City operation of the City Hall Snack Shop.

Mayor McDevitt said this budget amendment will amend the 17 Fund of the Parks, Recreation and Public Facilities Department to reflect the operation of the City Hall Snack Shop through Jun 30, 1985. This budget amendment is in the amount of $14,000.00 Revenues generated will offset costs of operation.

Vice-Mayor Bratton said she opposed the procedure taken in seeking bids for vendors to operate the City Hall Snack Shop. She said the City sought proposals from vendors to operate the Snack Shop, and then decided that the City would operate the Snack Shop. She said she did not think the City should be competing with private enterprise, and she did not like the manner in which this was handled.

Councilman Frank said she felt it was in the best interest of the City and City employees for the City to operate the Snack Shop.

Ray Kisiah, Director of Parks, Recreation, and Public Facilities Department, said proposals were sought mainly to obtain a cost analysis for the operation of the City Hall Snack Shop. He said after looking at the proposals, a decision was made for the City to operate the Snack Shop. He said this decision was based on the request of the employees, and the need for the Snack Shop to be operated on a small basis. He said it is not the intent of the City to compete with private enterprise or restaurants in the downtown area. He said the City has been operating the Snack Shop since November, and the Snack Shop has shown an increase in profits.

Councilman Boland expressed concerns about the City competing with other restaurants in the downtown area.

Mr. Kisiah assured Council that the operation was mainly for the convenience of City employees and general public visiting City Hall.

Louise McMorris told members of Council that she had presented a proposal for the operation of the City Hall Snack Shop. She said she had received a letter from the City stating that they were interested in someone operating the Snack Shop for the employees and the general public. She said in her proposal she offered a percentage from gross receipts, and she did not see how the City of Asheville could experience a loss by leasing the Snack Shop to a vendor. She said she had worked hard on the proposal, and was a food service operator for many years. She said she had called several times inquiring as to the status of her proposal, and finally received a letter from the City stating that the City would be operating the Snack Shop until June 30, 1985. She asked what the City of Asheville planned to do after June 30, 1985 concerning the operation of the Snack Shop.

Mayor McDevitt suggested that when proposals such as this are sent out, that a letter accompany the proposal stating that the City of Asheville might also consider carrying out the operation in-house.

Mayor McDevitt said the Asheville Housing Authority has received approval thru the HUD Area Office to repair streets in all local Asheville Housing Authority projects prior to dedication to the City. The estimated cost of the repairs is $99,470.00. Of the amount stated, $75,000 is available from Asheville Housing Authority reserves. The Asheville Housing Authority requests $24,870 in matching funds from Community Development. Funds are available in eighth and ninth year Community Development Administration and tenth year Community Development Contingency. This is an eligible Community Development expense.

Mayor McDevitt said members of Council were furnished copies of the ordinance and it would not be read in its entirety.

Councilman Frank moved for the adoption of Ordinance No. 1495. This motion was seconded by Councilman Price.

On a roll call vote of 7-0, Ordinance No. 1495 passed on first and final reading.

Complete text of Ordinance No. 1495 will be found in Ordinance Book No. 10 at page 237.

ORDINANCE NO. 1496 - BUDGET ORDINANCE AMENDMENT TO REALLOCATE CD PLANNING NINTH YEAR FUNDS ($5,818.00) TO THE CD TENTH YEAR BUDGET

4. Consideration was given to a budget ordinance amendment to reallocate CD Planning Ninth Year Funds ($5,818.00) to the CD Tenth Year Budget.

Mayor McDevitt said for several years, the Asheville Community Development has provided funds to the Asheville Planning Department to provide supplementary supportive planning services. The Asheville Planning Department failed to expend $5,818.00 provided for planning services in the Ninth fiscal year (1983-84), and are requesting that these funds be allocated for expenditures in the Tenth year (1984-85) Community Development Planning budget. This is only a transfer of funds from the Community Development Ninth Year funds to Community Development Planning tenth Year budget.

Mayor McDevitt said members of Council were furnished copies of the ordinance and it would not be read in its entirety.

Councilman Boland moved for the adoption of Ordinance No. 1496. This motion was seconded by Councilman Bissette.

On a roll call vote of 7-0, Ordinance No. 1496 passed on first and final reading.

Complete text of Ordinance No. 1496 will be found in Ordinance Book No. 10 at page 238.

The bid summary for the fork lift truck is as follows:

BIDDER	TOTAL AMOUNT
Colman Company, Greenville, S. C.	No bid
Contractors Service & Rental, Asheville, N. C.	No Bid
Arden Equipment Company	No Bid
Western Carolina Fork Lift, Conover, N. C.	$14,380.00
Vesco Industrial Truck, Hickory, N. C.	$15,600.00

RESOLUTION NO. 85-X - RESOLUTION OF ENDORSEMENT OF THE DEVELOPMENT OF A LINEAR PARK AS PART OF THE PROPOSED BROADWAY HIGHWAY PROJECT

8. Consideration was given to a resolution of endorsement of the development of a linear park as part of the proposed Broadway Highway Project.

Mayor McDevitt said the North Carolina Department of Transportation has included the upgrading and widening of Broadway in the Transportation Improvement Program. Based on studies and interest expressed by residents in the area of UNC-Asheville, a need has been determined for a greenway-bikepath along this corridor. The Transportation Advisory Committee has requested and received approval for consideration of a safe bicycling corridor from downtown to the University campus. A landscaped linear park and bikepath would constitute the most effective use of the residual properties remaining from the right-of-way acquisitions. It is important to the success of the project to submit this endorsement during the initial engineering stage of the planned highway improvement. There will be maintenance costs associated with this project by the state and/or City depending upon how the project is developed.

Sonya Luckadoo, with the Planning Department, presented the linear park and bike path plan.

After discussion, it was the consensus of Council to approve the concept of the development of a linear park, and to request that the North Carolina Department of Transportation include the project as a part of the proposed Broadway Highway Project. The resolution was amended to include that the Council expresses its intent to maintain land use requirements consistent with the project.

Council requested that the Planning and Zoning Commission be notified of Council's endorsement of the proposed park, and be encouraged to consider the project when considering zoning or development projects in this area.

Mayor McDevitt read the resolution.

Upon motion of Councilman Price, seconded by Councilman Frank, Resolution No. 85-7 was unanimously adopted.

Complete text of Resolution No. 85-7 will be found in Resolution Book No. 15 at page 136.

SCHEDULING PUBLIC HEARING - UMTA GRANT

9. Consideration was given to a motion scheduling a public hearing regarding the filing of an application to the U. S. Department of Transportation for an Urban Mass Transportation Grant for March 12, 1984.

Upon request of Councilman Boland, Mr. Kisiah said he would furnish Council with a computer printout of the current operation of the City Hall Snack Shop.

Mayor McDevitt said members of Council were furnished copies of the ordinance and it would not be read in its entirety.

Councilman Frank moved for the adoption of Ordinance No. 1497. This motion was seconded by Councilman Price.

On a roll call vote of 6-1, Ordinance No. 1497 passed on first and final reading, with Vice-Mayor Bratton voting "no".

RESOLUTION NO. 85-~~A~~ 15 ch - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE THE RENTAL REHABILITATION PROGRAM GRANT AGREEMENT WITH THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

6. Consideration was given to a resolution authorizing the Mayor to execute the Rental Rehabilitation Program Grant Agreement with the Department of Housing and Urban Development.

Mayor McDevitt said the City of Asheville submitted an application to the Department of Housing and Urban Development to participate in its Rental Rehabilitation Program. The program description submitted for the Rental Rehabilitation Program has been approved by the Department of Housing and Urban Development. The release of grant funds is subject to the execution of the Grant Agreement by and between the City of Asheville and the Department of Housing and Urban Development. Upon execution of the Rental Rehabilitation Program Grant Agreement, the Housing Authority of the City of Asheville will receive $59,000.00 for rental rehabilitation.

Mayor McDevitt said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Myers, seconded by Councilman Price, Resolution No. 85-6 was unanimously adopted.

Complete text of Resolution No. 85-~~6~~ 15 mon will be found in Resolution Book No. 15 at page ~~135~~ 145 mon.

BIDS - FORK LIFT TRUCK FOR THE ASHEVILLE TRANSIT AUTHORITY

7. Consideration was given to bids received for a fork lift truck for the Asheville Transit Authority.

Mayor McDevitt said two (2) bids were received for a fork lift truck for the Asheville Transit Authority. Recommendation to award the bid to the low bidder, Western Carolina Fork Lift, Inc. in the amount of $14,380.00. The amount budgeted for this item was $14,000.00; however, UMTA permits the City to exceed this amount by any reasonable amount. Funds are available in Account 67-903-0740 and is part of an approved UMTA project No. NC-05-0019.

Councilman Frank moved to approve the bids and award the contract to the low bidder, Western Carolina Fork Lift, Inc. in the amount of $14,380.00. This motion was seconded by Councilman Myers and carried unanimously.

Tuesday - February 12, 1985 - 4:00 p.m.

Asheville Civic Center Banquet Room

Regular Meeting

Present: Mayor Larry McDevitt, Presiding; Vice-Mayor Wilhelmina Bratton; Councilmen Mary Lloyd Frank, Norma T. Price, Gordon Myers, Walter R. Boland, and Louis Bissette; Corporation Counsel William F. Slawter; City Manager Neal Creighton; Associate City Manager/City Clerk William P. Wolcott, Jr.

Absent: None

INVOCATION

The invocation was given by Councilman Walter Boland.

APPROVAL OF THE MINUTES - FEBRUARY 5, 1985, MEETING

1. Approval of the minutes of the February 5, 1985, meeting.

Mayor McDevitt announced the approval of the minutes of the February 5, 1985, meeting as submitted.

PROCLAMATION - FEBRUARY 14, 1985 - "SALUTE TO HOSPITALIZED VETERANS"

Mayor McDevitt read a proclamation proclaiming February 14, 1985, as "Salute to Hospitalized Veterans."

PROCEDURE FOR CONDUCTING PUBLIC HEARINGS - HAW CREEK AREA

Mayor McDevitt said due to the inclement weather, the City Council has decided that the public hearings scheduled for today's meeting will be continued until February 19, 1985, at 4:00 p.m. in the Asheville Civic Center Banquet Room in order to give the residents an opportunity to voice their opinions relative to the proposed developments. He said the public hearings would be opened as a legal requirement; however, no action would be taken on the proposed developments or the proposed moratorium. He said staff presentations would be made at the meeting on February 19, 1985.

Mayor McDevitt said all three public hearings relative to the Haw Creek area would be held simultaneously.

PUBLIC HEARING - SITE PLAN OF PROPOSED HAW CREEK APARTMENTS TO BE LOCATED OFF MELTON DRIVE IN HAW CREEK

3. A public hearing was held relative to the site plan of the proposed Haw Creek Apartments to be located off Melton Drive in Haw Creek.

Mayor McDevitt said the Asheville Planning and Zoning Commission, at a meeting held January 9, 1985, reviewed the site plan of the proposed Haw Creek Apartments to be located off Melton Drive in Haw Creek. The plan was prepared by Larry Traber, Architect, for Mike Summey, Developer, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend to City Council that approval of the project be denied.

Mayor McDevitt said the City of Asheville intends to apply for an annual UMTA grant for operating assistance. Federal regulations require a public hearing to be held prior to the filing of an application. The expenditures for this project will include a 50-50 match between local and federal funds: Local - $492,410; Federal - $492,409; Total - $984,819. These funds are in the current budget.

Councilman Boland moved to schedule a public hearing regarding the filing of an application to the U.S. Department of Transportation for an Urban Mass Transportation Grant for March 12, 1984. This motion was seconded by Councilman Myers and carried unanimously.

CLAIMS - ROLLINS DAVIS (WATER) - MR. STARNES (SEWER) - NICHOLUS SEXTON (SENIOR OPPORTUNITY CENTER) - BRENDA INGLE (STREETS) - KAREN GUTHRIE (WATER) - LLOYD JENKINS (STREETS) - JOYCE BUCKNER (STREET) - MARTHA CHRISMAN (WATER) -MacDUFF ASSOCIATES, INC. (WATER) - EDNA MAHAFFEY (WATER) - GLADYS YOUNG (STREET)

The City Clerk presented claims received from Rollins Davis, Mr. Starnes, Nicholus Sexton, Brenda Ingle, Karen Guthrie, Lloyd Jenkins, Joyce Buckner, Martha Chrisman, MacDuff Associates, Inc., Edna Mahaffey, and Gladys Young.

Mayor McDevitt referred the claims to the Corporation Counsel for investigation and recommendation.

LAWSUITS - ROBERT HUNTER VS CITY OF ASHEVILLE (COMPLAINT FOR REFUND OF TAXES)

The City Clerk said the City was served with a summons in connection with a lawsuit involving Robert Hunter VS City of Asheville regarding a complaint for refund of taxes.

Mayor McDevitt referred the summons to the Corporation Counsel for investigation and recommendation.

ADJOURNMENT

Upon motion of Councilman Frank, seconded by Vice-Mayor Bratton, the meeting adjourned at 5:10 p.m.

Tony McDevitt
MAYOR

William F. Maloney
CITY CLERK

CLAIMS - CHRISTY LEE TAYLOR (WATER) - BARBARA TESLER (WATER) - A. L. SIZEMORE (WATER) - DOUGLAS MARTIN (FIRE) - L. J. REALTY COMPANY (SEWER)

The City Clerk presented claims received from Christy Lee Taylor, Barbara Tesler, A. L. Sizemore, Douglas Martin, and L. J. Realty Company.

Mayor McDevitt referred the claims to the Corporation Counsel for investigation and recommendation.

ADJOURN TO EXECUTIVE SESSION

Councilman Price moved to adjourn to Executive Session to discuss a real estate matter. This motion was seconded by Councilman Myers and carried unanimously.

Jay McDevitt
MAYOR

Marian F. Maccarone
CITY CLERK

Mayor McDevitt opened the public hearing at 4:05 p.m.

The City Clerk presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Councilman Bissette moved to continue the public hearing relative to the proposed Haw Creek Apartments until February 19, 1985, without further advertisement. This motion was seconded by Councilman Price and carried unanimously.

PUBLIC HEARING - SITE PLAN FOR APARTMENT COMPLEX ON BEVERLY ROAD

4. A public hearing was held relative to a site plan for an apartment complex on Beverly Road.

Mayor McDevitt said the Asheville Planning and Zoning Commission, at a meeting held January 9, 1985, reviewed the site plan of a proposed 34 unit apartment complex to be located on Beverly Road. The plan was prepared by Ashley Engineering for Mr. Harry Lerner, Developer, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of the site plan to City Council subject to compliance with the Erosion Control Ordinance.

Mayor McDevitt opened the public hearing at 4:05 p.m.

The City Clerk presented the notice to the public, setting the time and date of the public hearing and the affidavit of publication.

Councilman Boland moved to continue the public hearing relative to the site plan for an apartment complex on Beverly Road until February 19, 1985, without further advertisement. This motion was seconded by Councilman Myers and carried unanimously.

PUBLIC HEARING RELATIVE TO A MORATORIUM ON NEW BUILDINGS IN HAW CREEK

5. A public hearing was held relative to a moratorium on new buildings in Haw Creek.

Mayor McDevitt said at its meeting on January 9, 1985, the Asheville Planning and Zoning Commission, after presentations by the Haw Creek Community Association, Inc., voted to recommend to the Asheville City Council that a 90 day moratorium be imposed on all development in the Haw Creek area. The stated purpose for said moratorium is as follows: To allow a study of existing conditions in the neighborhood to determine the ability of utility, roads and streets systems to accommodate additional growth. In addition, the Commission recommended that staff study the zoning patterns of the neighborhood along with the ability of the school system to absorb any additional influx of students.

Mayor McDevitt opened the public hearing at 4:05 p.m.

The City Clerk presented the notice to the public, setting the time and date of the public hearing and the affidavit of publication.

Councilman Frank moved to continue the public hearing relative to a moratorium on new buildings in Haw Creek until February 19, 1985, without further advertisement. This motion was seconded by Councilman Myers and carried unanimously.

Verl Emrick, Director of Planning, said the Planning and Zoning Commission had recommended to Council that a portion of Lot 56 be rezoned from R-1 Residential District to LI Light Industrial District to allow further use of the property. He said the property is owned by the Carolina Power and Light Company, and has been declared surplus, and they wish to sell the property. He said they have a buyer for the property for a commercial use. He said opposition to the rezoning was received from several residents in the area. He said the residents did not want the commerical zoning. He said they felt Rock Hill Road is too narrow to carry additional traffic, and they preferred that their neighborhood remain a quiet residential area.

Mr. Caldwell of Rock Hill Road spoke in opposition to the rezoning stating that a commercial zone would take over their residential neighborhood.

Mr. Albert Sorrells, right-of-way agent for Carolina Power and Light Company, spoke in support of the rezoning.

By the use of a map, Mr. Emrick reviewed the location of the property proposed to be rezoned.

Mayor McDevitt closed the public hearing at 4:30 p. m.

Mayor McDevitt said members of Council were furnished copies of the ordinance, and it would not be read in its entirety.

Councilman Bissette requested that he be excused from voting on the proposed rezoning of the property located on Rock Hill Road, since his law firm represents Carolina Power and Light Company, and in his opinion there would be a conflict of interest.

Vice-Mayor Bratton moved to excuse Councilman Bissette from voting on the proposed rezoning of the property located on Rock Hill Road. This motion was seconded by Councilman Boland and carried unanimously.

There being no motion for adoption of the ordinance to rezone the property located on Rock Hill Road, the request to rezone the property was denied, and the property will remain zoned R-1 Residential District.

PUBLIC HEARING - SITE PLAN OF SOUTH MOUNTAIN MEDICAL, INC. LOCATED IN SWEETEN CREEK INDUSTRIAL PARK

3. A public hearing was held relative to a site plan of the proposed South Mountain Medical, Inc. located in Sweeten Creek Industrial Park.

Mayor McDevitt said the Asheville Planning and Zoning Commission at a meeting held January 9, 1985, reviewed the site plan of the proposed South Mountain Medical, Inc. industry to be located in Sweeten Creek Industrial Park. The plan was prepared by Danie Johnson, Architect, for Joden Properties, Inc., Developer, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of the site plan to City Council subject to compliance with the Erosion Control Ordinance.

Tuesday, February 19, 1985 - 4:00 p. m.

Asheville Civic Center Banquet Room

Regular Meeting

Present: Mayor Larry McDevitt, Presiding; Vice-Mayor Wilhelmina Bratton; Councilmen Mary Lloyd Frank, Norma T. Price, Walter R. Boland, and Louis Bissette; Corporation Counsel William F. Slawter; City Manager Neal Creighton; Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Councilman Gordon Myers

INVOCATION

The invocation was given by Councilman Norma Price.

APPROVAL OF THE MINUTES - FEBRUARY 12, 1985 MEETING

1. Approval of the minutes of the February 12, 1985 meeting.

Mayor McDevitt announced the approval of the minutes of the February 12, 1985 meeting as submitted.

PROCLAMATION - SUNDAY, FEBRUARY 24, 1985 - "ASHEVILLE SCHOOL DAY"

Mayor McDevitt read a proclamation proclaiming Sunday, February 24, 1985 as "Asheville School Day".

Mayor McDevitt presented the proclamation to Mr. Ray Cruett of the Asheville School.

PUBLIC HEARING - REZONING PROPERTY LOCATED ON ROCK HILL ROAD - CAROLINA POWER AND LIGHT COMPANY REQUEST

2. A public hearing was held relative to rezoning property located on Rock Hill Road from R-1 Residential District to LI Light Industrial District, requested by Carolina Power and Light Company.

Mayor McDevitt said the Asheville Planning and Zoning Commission at a meeting held January 9, 1985 considered the request of Carolina Power & Light Company by Douglas Thigpen, Attorney, that Ward 7, Sheet 56, Lot 56, be rezoned from R-1 Residential District to LI Light Industrial District. The property is located on Rock Hill Road. After review and discussion, the Commission voted to recommend to City Council that Ward 7, Sheet 56, portion of Lot 56, be rezoned from R-1 Residential District to LI Light Industrial District.

Mayor McDevitt opened the public hearing at 4:12 p. m.

The City Clerk presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

PUBLIC HEARING - SITE PLAN OF PROPOSED HAW CREEK APARTMENTS - MELTON DRIVE IN HAW CREEK

5. A public hearing relative to a site plan of the proposed Haw Creek Apartments to be located off Melton Drive in Haw Creek was continued.

Mayor McDevitt said the Asheville Planning and Zoning Commission at a meeting held January 9, 1985, reviewed the site plan of the proposed Haw Creek Apartments to be located off Melton Drive in Haw Creek. The plan was prepared by Larry Traber, Architect, for Mike Summey, Developer, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend to City Council that approval of the project be denied. This public hearing was continued from the February 12, 1985 meeting.

PUBLIC HEARING - SITE PLAN FOR APARTMENT COMPLEX ON BEVERLY ROAD

6. A public hearing relative to a site plan for an apartment complex on Beverly Road was continued.

Mayor McDevitt said the Asheville Planning and Zoning Commission at a meeting held January 9, 1985, reviewed the site plan of a proposed 34 unit apartment complex to be located on Beverly Road. The plan was prepared by Ashley Engineering for Mr. Harry Lerner, Developer, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of the site plan to City Council subject to compliance with the Erosion Control Ordinance. This public hearing was continued from the February 12, 1985 meeting.

PUBLIC HEARING - MORATORIUM ON NEW BUILDINGS IN HAW CREEK

7. A public hearing relative to a moratorium on new buildings in Haw Creek was continued.

Mayor McDevitt said at its meeting on January 9, 1985, the Asheville Planning and Zoning Commission after hearing presentations by the Haw Creek Community Association, Inc. voted to recommend to the Asheville City Council that a 90 day moratorium be imposed on all development in the Haw Creek area. The stated purpose for said moratorium is as follows: To allow a study of existing conditions in the neighborhood to determine the ability of utility, roads and streets systems to accommodate additional growth. In addition the Commission recommended that staff study the zoning patterns of the neighborhood along with the ability of the school system to absorb any additional influx of students. This public hearing was continued from the February 12, 1985 meeting.

Mayor McDevitt opened the public hearing at 4:35 p. m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said the Planning and Zoning Commission recommended approval of the project. He said the building would be erected behind the present Pepsi Cola plant in Sweeten Creek Industrial Park. He said the project has been reviewed and approved by the Metropolitan Sewerage District and the Water Department. He said Phase I of the project would consist of 48,000 square feet. He said the project meets all the requirements of the zoning ordinance.

Mayor McDevitt closed the public hearing at 4:37 p. m.

Councilman Price moved to approve the site plan of the proposed South Mountain Medical, Inc. to be located in the Sweeten Creek Industrial Park. This motion was seconded by Councilman Bissette and carried unanimously.

PUBLIC HEARING - SITE PLAN OF PROPOSED MOBILE HOME PARK TO BE LOCATED ON SAND HILL ROAD

4. A public hearing was held relative to a site plan of a proposed Mobile Home Park to be located on Sand Hill Road.

Mayor McDevitt said the Asheville Planning and Zoning Commission at a meeting held January 9, 1985, reviewed the site plan of a proposed Mobile Home Park to be located on Sand Hill Road. The plan was prepared by Frank McGahren, Engineer, for Tom Pinkerton, Developer, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of the amended plan to City Countil subject to compliance with the Erosion Control Ordinance.

Mayor McDevitt opened the public hearing at 4:38 p. m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said the Planning and Zoning Commission recommended approval of the site plan. He said Mr. Tom Pinkerton, Developer, owns and resides on the property to be developed. He said the project was reviewed and approved by the Traffic Engineer. He said the project would consist of 48 units, which meets all the requirements of the zoning ordinance.

Mr. Tom Pinkerton, Developer of the Mobile Home Park, spoke in support of his proposed project. He said no opposition had been received on the proposal.

Mayor McDevitt closed the public hearing at 4:45 p. m.

Councilman Price moved for the approval of the site plan for the Mobile Home Park to be located on Sand Hill Road. This motion was seconded by Councilman Frank and carried unanimously.

Mr. Emrick said the project meets all requirements of the zoning ordinance, and the developer has commitments from the Metropolitan Sewerage District and the Water Department. He said the sewer crews checked the flow in the area, and determined that the problems referred to by the residents in the area are not related to the adequacy of the sewer, but is created by overflowing from infiltration of high water from the creek. He said according to the Water and Sewer Department the problem comes from an 8" line which is broken and deteriorated. He said this line is owned by the City and the County.

Mr. Emrick presented the site plan for an apartment complex on Beverly Road. He said Mr. Harry Lerner, Developer of the proposed apartment complex, submitted an application for the project in December, 1984. He said the Planning and Zoning Commission reviewed the project in January, 1985, and recommended approval of the site plan to City Council subject to compliance with the Erosion Control Ordinance. He said, according to the plans, Mr. Lerner plans to have a self-contained utility system for his project, by tieing into a 20" sewer trunk line, and by installing a 6" water line into a 36" feeder line. He said opposition was received from the residents in Haw Creek on the basis that Beverly Road would not carry the additional traffic flow that would be created by the project.

Mr. Emrick said at the Planning and Zoning Commission meeting on January 9, 1985, prior to the discussions relative to the site plans for Mr. Mike Summey and Mr. Harry Lerner, the Commission received comments from the residents of Haw Creek requesting a 90-day moratorium on all development in the Haw Creek area. He said the purpose of the moratorium is to allow the planning staff to develop a comprehensive report on existing and projected conditions of traffic, water and sewer systems in Haw Creek. He said in the past two to three years the Commission and Council has approved approximately 600 multi-family units in the Haw Creek area. He said it has been determined that Haw Creek has the largest land use mass for developments in the City of Asheville. He said it is staff's opinion not to promote a "no growth" situation. He said the study would identify problems in the area, and provide recommendations for proper growth of the area. He said the planning staff has already started working on the comprehensive plan for Haw Creek. He reviewed the issues that the Planning staff has already addressed.

By the use of a map, Mr. Emrick identified the area to be included in the moratorium.

Mayor McDevitt said all three (3) of the above public hearings were opened at the February 12, 1985 meeting; however, due to the inclement weather the public hearings were continued until today. He said because all three (3) issues are interrelated, Council has decided to hold the public hearings simultaneously. He requested that citizens wishing to speak on the Haw Creek matters hold their comments to three (3) minutes, unless they are representing a group of citizens. He requested that anyone speaking for a group to try to limit their comments to ten (10) minutes.

Mayor McDevitt said Councilman Myers was called out of town on business.

Mayor McDevitt requested that he be excused from discussion and vote on the proposed Haw Creek Apartments to be located off Melton Drive in Haw Creek since his law firm represents the developer, Mike Summey, and in his opinion this would constitute a conflict of interest.

Vice-Mayor Bratton moved to excuse Mayor McDevitt from discussing and voting on the proposed Haw Creek Apartments to be located off Melton Drive in Haw Creek. This motion was seconded by Councilman Price and carried unanimously.

Mayor McDevitt said staff presentations would be made on each issue then the floor would be open for public comments on all three (3) issues.

Verl Emrick, Director of Planning, in presenting the site plan of the proposed Haw Creek Apartments, said Mr. Summey submitted his application to the Planning and Zoning Commission on September 4, 1984. He said the matter was delayed pending information on the adequacy of sewer facilities in the area. He said the Planning and Zoning Commission considered the matter on January 9, 1985. He said the property is zoned R-2 Residential and is located off Melton Drive. He said the Planning Commission received petitions in opposition to the project. He said the Commission voted to recommend to Council that approval of the project be denied due to the inadequate access to the property.

Mr. Emrick said the plans indicated an access into the property from a cul-de-sac which has a 50' right-of-way. He said traffic counts were taken on Melton Drive, by the Traffic Engineer, which indicated 142 trips into Melton Drive each day. He said the Commission felt the cul-de-sac was built for a small subdivision, and would not be large enough for an apartment complex. He said Mr. Summey had contacted several property owners in the area in an attempt to provide another access into the property; however the property owners would not grant Mr. Summey an access easement through their property.

George Perkins - 625 New Haw Creek Road
Paul Hutchins - Willowbrook Road
Bill Tennant - Tennant Lane

Note: Mildred Southern, 1 Waters Road, said her sewer lines have backed up three (3) times ruining her carpet, walls, baseboards, tile, etc. and the City of Asheville Insurance Adjuster has rejected her claim for damages on all occasions. She said she felt the problem was negligence on the part of the City.

Carolyn Tingle of Kenilworth Road, said Mr. Summey built apartments across the street from her house. She said at first she opposed his project; however she said since Mr. Summey built the apartments, he did a very good job, leaving trees, etc., and is very selective in his tenants.

Gary Rowe, Attorney representing the Haw Creek Homeowners Association and residents of Melton Drive, spoke in opposition to the two (2) proposed projects - Mike Summey and Harry Lerner. He said according to his interpretation of the Zoning Ordinance, an applicant for a group development must own the property proposed to be developed. He said it is his understanding that Mr. Summey nor Mr. Lerner owns the properties proposed to be developed. He said this concern should be addressed.

Mr. Emrick responded to Mr. Rowe that for purposes of this nature, the zoning ordinance is interpreted that individuals that have options on property can act as designated agents.

Mr. Rowe read portions of the zoning ordinance - group development section outlining the reasoning for approval/disapproval of a proposed development. He said the residents are not opposed to progress in the Haw Creek area; however, the area should be guarded.

Mr. Rowe said Melton Drive, where the Summey project is proposed to be developed, is only 16', and is not wide enough to carry the additional burden of 32 units.

Mr. Rowe presented the following documents for Council's consideration:

A letter from Marvin E. Waddey, former Director of Public Works - Buncombe County, and resident of 49 Willowbrook Road - relative to the deterioration of the 8" sewer line in Haw Creek.

Statements from residents of Haw Creek relative to the problems in Haw Creek - particularly sewer problems.

Photographs showing the problems in the Haw Creek Area.

Statement from Daina Moody, 30 Willowbrook Road, School Bus Driver in the Haw Creek area - relative to roads that are too narrow

(A copy of all these documents are on file in the Office of the City Clerk for the City of Asheville)

At the request of Council, Rick Harper, with the Water and Sewer Department, said the sewer problems referred to by the residents of Haw Creek is caused by the line extending from Beverly Road to the Sondley Estate. He said about half the line is in the City and the other half in the County. He said the line is running about 1/4 capacity, until it rains, and then the rain causes the manholes to overflow. He said other than when it rains the line works well. He said in order to correct the problem the 8" line would have to be relocated away from the creek. He said this would have to be a joint effort by the City and the County. He said it would cost the City approximately $270,000 to relocate the City's part of the line. He said, in his opinion, the 8" collector line has the capacity of carrying the two new proposed developments - Haw Creek Apartments and the apartment complex on Beverly Road. He said if everyone on the line now was taken off, there would still be a problem with infiltration on the 8" collector line.

Mr. Harper answered questions from members of Council relative to the sewer line problem.

The following individuals spoke in opposition to the proposed site plans submitted by Mr. Mike Summey and Mr. Harry Lerner, and speaking in support of the proposed 90-day moratorium. They cited concerns relative to the amount of traffic that would be generated from the two projects, problems related to water, sewer, traffic , over-population, and the need to protect property values. They felt progress in the area should be stopped until all the problems are addessed. They said they would also like for the Haw Creek area to remain primarily for single family dwellings:

Tidwell Williams - Haw Creek
Martha McMahan - 18 Melton Drive
Bruce Bailey - 11 Waters Road
J. E. Anderson - 16 Willowbrook
Monk Bradford - 111 Pershing Road
Bob Reese - Haw Creek
Philip Neal - Willowbrook Road
Mrs. Eugene Melton - 660 New Haw Creek Road
Bob McPherson - Sondley Parkway
Mildred Southern - 1 Waters Road
Grace Hess - 380 New Haw Creek Road
Clark Crozer - 48 Willowbrook Road
Pamela Owenby - 79 Keasler Road
Harry Burnette - 767 Haw Creek Road
Michael Davis - 251 Old Haw Creek Road
Col. Lester Lampert - 17 Hillview Circle
Barbara Melton - Melton Drive
Dorothy Davis - Haw Creek Road, Chairman of Haw Creek Homeowners Assn. (presented petition opposing projects - signed by 313 residents and voters)
Ruby Cairnes - 26 Willowbrook Road
Nan P. Brown - 11 Whitson Road
Pauline Tennant - Tennant Lane
Earl Bessard - 4 Keasler Circle
Fredrick Romig - 46 Keasler Road

Mr. Harry Lerner, Developer for the apartment complex on Beverly Road, spoke in support of his proposed development. He said he would comply will all problems addressed. He said the property on which the development is proposed is on the tax books for $280.80, and his development would increase this substantially. He said he plans, at his expense, to put in a 6" sewer line and a 6" water line to the property. He said he proposes to install the 6" sewer line to tie into a 10" sewer manhole then into the 20" trunk line behind Miller Store. He said Beverly Road does not carry that much traffic, and would have no problem carrying the additional traffic that would be generated by his proposed development. He said he also plans to install a fire hydrant in the area which would benefit everyone on Beverly Road. He requested that Council approve his project, and not stop developments while a study is being conducted.

At the request of Council, Mr. Ashley with Ashley Engineering, Engineer for the apartment complex on Beverly Road, explained the plan for installing the sewer line to the property. It was determined that an 8" line would be installed on the property, tie into a 6" manhole, tie into a 10" manhole, then into the 20" main trunk line.

Mike Summey said Council should seriously consider imposing a moratorium. He said this affects the City and developers.

Mr. Rowe reiterated the point that Mr. Lerner's plan for installing the sewer line was misrepresented to the City, and that Mr. Summey and Mr. Lerner does not own the property proposed to be developed.

Mayor McDevitt closed the public hearings at 8:36 p. m.

SITE PLAN FOR PROPOSED HAW CREEK APARTMENTS - MELTON DRIVE - MIKE SUMMEY

Upon inquiry of Vice-Mayor Bratton, Corporation Counsel Slawter said Council, in his opinion, did have the authority to disapprove a proposed development in considering the health, safety, and welfare of the community.

Councilman Bissette move that the site plan for the Haw Creek Apartments be referred back to the Planning and Zoning Commission for further consideration for a report back to Council in 120 days. This motion was seconded by Councilman Frank, which motion failed on a voice vote of 3-2, with Vice-Mayor Bratton, Councilman Frank, and Councilman Bissette voting "aye", and Councilmen Price and Boland vote "no".

Not hearing a motion for approval of the project, Mayor McDevitt announced that the request for approval of the site plan for the Haw Creek Apartments is denied.

Mr. Rowe presented the following documents for Council's consideration:

A letter from Marvin E. Waddey, former Director of Public Works - Buncombe County, and resident of 49 Willowbrook Road - relative to the deterioration of the 8" sewer line in Haw Creek.

Statements from residents of Haw Creek relative to the problems in Haw Creek - particularly sewer problems.

Photographs showing the problems in the Haw Creek Area.

Statement from Daina Moody, 30 Willowbrook Road, School Bus Driver in the Haw Creek area - relative to roads that are too narrow

(A copy of all these documents are on file in the Office of the City Clerk for the City of Asheville)

Mr. Rowe said it is his understanding that Mr. Lerner intends to tie into a 10" sewer line then into the 20" trunk line.

Mr. Rowe requested that the two projects - Mike Summey and Harry Lerner - be put on hold until the problems in the Haw Creek community can be addressed.

Pauline Tennant of Tennant Lane, presented a statement relative to the sewer problems in Haw Creek. She said she felt the solution to the problem would be to replace the entire sewer system. (A copy of the statement is on file in the Office of the City Clerk)

Mike Summey, Developer for the proposed Haw Creek Apartments, spoke in support of his project. He said he felt the Council would be acting unfairly if it did not approve his request because he has complied with all city regulations since the application was filed in September. He said the Council set up group development guidelines for developers, and they should live by them.

Mr. Summey said his property has a natural buffer, and he did not anticipate taking any trees out in developing the property. He said his project would not have any bearing on the sewer line in the area. He said this had been indicated by the Water and Sewer Department. He said his project, in his opinion, would have no impact on the problems addressed by the residents of Haw Creek. He said his project meets all the requirements of the zoning ordinance, group development section, all building codes, and he has commitments from the Metropolitan Sewerage District and the Water Department. He requested that Council approve the project for the Haw Creek Apartments on Melton Drive.

B. RESOLUTION NO. 85-~~8~~ 18 -Resolution authorizing the Purchasing Director to dispose of property by private sale at a negotiated price.

HIGHLIGHTS: Article 12 of Chapter 160-A of North Carolina General Statutes provides that a municipality may dispose of personal property valued at less than $5,000 for any one item or group of similar items through private negotation and sale. The Motor Transport Division has approximately 1,000 used tires, for which the City has no use. These tires have been declared surplus by the Motor Transport Superintendent.

FISCAL IMPACT: Additional revenue of approximately $1,000.00.

Resolution Book No. 15 - page ~~138~~ 148 mon

Upon motion of Councilman Frank, seconded by Councilman Boland, the consent agenda was unanimously adopted.

CLAIMS - WILLIAM SOUTHERN (SEWER) - ROGER LANCE (STREETS) - MRS. FRANK GREEN (STREETS) - KIM SULLIVAN (STREETS)

The City Clerk presented claims received from William Southern, Roger Lance, Mrs. Frank Green, and Kim Sullivan.

Mayor McDevitt referred the claims to the Corporation Counsel for investigation and recommendation.

COUNCIL WORK SESSION - THURSDAY, FEBRUARY 21, 1985 5:30 P. M.

Mayor McDevitt announced that Council would have a work session on Thursday, February 21, 1985 at 5:30 p. m. in the Council Conference Room in the City Hall Building. He said he anticipated that the entire work session would be an executive session dealing with real estate, personnel, and legal matters.

ATTENDANCE OF COUNCIL AND CITY MANAGER TO SOUTHERN PINES CONFERENCE IN MARCH, 1985

Councilman Frank moved to authorize the City Manager and any member of Council who wishes, to attend the Southern Pines Conference in March, 1985. This motion was seconded by Councilman Price and carried unanimously.

ADJOURNMENT

Councilman Frank moved to adjourn the meeting at 9:25 p. m. This motion was seconded by Councilman Price and carried unanimously.

Larry McDevitt
MAYOR

Miriam J. Metcalf
CITY CLERK

SITE PLAN FOR AN APARTMENT COMPLEX ON BEVERLY ROAD - HARRY LERNER

Vice-Mayor Bratton moved for the approval of the site plan for an apartment complex on Beverly Road. This motion was seconded by Councilman Price and carried unanimously.

ORDINANCE NO. 1498 - ORDINANCE IMPOSING A NINETY DAY MORATORIUM LIMITING DEVELOPMENT IN THE HAW CREEK AREA

Mayor McDevitt read the proposed ordinance.

Councilman Price moved for the adoption of Ordinance No. 1498. This motion was seconded by Councilman Boland.

On a roll call vote of 6-0, Ordinance No. 1498 passed on first reading.

APPROVAL OF CONSENT AGENDA

8. Mayor McDevitt said the following items are of a routine nature and they have been previously reviewed by the members of the City Council. Therefore, by unanimous vote to approve these items, the City Council may, pursuant to the procedures established in Ordinance No. 1008, adopt all of the items with one motion without the full reading and/or separate motion adopting each individual item. Upon the request of a citizen, a member of the City Council, and/or a member of the City staff, any single item scheduled for approval on the consent agenda may be considered separately.

A. RESOLUTION NO. 85-147 -Resolution authorizing the City Manager to sign an agreement for permanent partial disability settlement for worker's compensation with Robert L. Alexander.

HIGHLIGHTS: Robert L. Alexander is an employee of the Asheville Parks, Recreation, and Public Facilities Department. Mr. Alexander sustained a compensable injury under Chapter 97 of the North Carolina General Statutes for Worker's Compensation on or about the 29th day of July, 1983. The employee has reached maximum medical improvement and been rated by his physician as having a 10% permanent partial disability of his left arm. Under said Chapter of the General Statutes 10% permanent partial disability to the left arm is equal to $5,004.72, based upon the employee's compensation rate under the law. This resolution will authorize the City Manager to execute an agreement on behalf of the City of Asheville to finally settle the disability sustained by said employee in the course and scope of his employment.

FISCAL IMPACT: The Parks, Recreation, and Public Facilities Department will absorb the cost of $5,004.72.

Resolution Book No. 15 at page ~~137~~ 147

Mayor McDevitt opened the public hearing at 4:12 p.m.

Mayor McDevitt summarized the proposed ordinance.

Corporation Counsel Slawter said the adoption of this ordinance would simply change the method of election of the Mayor. He said it would in no way change the authority of the Mayor. He said after the adoption of the ordinance, Council may request the North Carolina General Assembly to change the City of Asheville Charter, particularly with reference to the requirement of the Mayor to vote. He said this action would be requested in order to clarify this requirement.

The following individuals spoke in opposition to the adoption of an ordinance for the direct election of the Mayor, stating that the present method has worked for a number of years, and the proposed method may lose good qualified candidates for Council seats that would run for Mayor. It was suggested that the Mayorship be given to the individual receiving the highest number of votes:

George White - West Asheville
Pauline Tennant - Tennant Lane
Mrs. Algary - 172 Wembly Road
Carol Smith - Beverly Hills
Florence Ryan - 74 Wembly Road
Bill Tennant - Tennant Lane

The following individuals spoke in support of adoption of an ordinance, for the direct election of the Mayor, stating that the citizens of Asheville had the right to elect their own Mayor, and there is divisiveness in electing the Mayor under the present method:

F. D. Fitzgerald Horn
Rev. Wendall Christerpher
Dr. Otis Michael - former Councilman
Mrs. Jones - 72 Jefferies Avenue
Ralph Bishop
Steve Wilborn

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Mayor McDevitt closed the public hearing at 4:43 p.m.

ORDINANCE NO. 1498 - AN ORDINANCE IMPOSING A 90 DAY MORATORIUM LIMITING DEVELOPMENT IN THE HAW CREEK AREA

3. Consideration was given to the second reading of Ordinance No. 1498, an Ordinance imposing a 90 day moratorium limiting development in the Haw Creek Area.

Regular Meeting

Tuesday - February 26, 1985 - 4:00 p.m.

Present: Mayor Larry McDevitt, Presiding; Vice-Mayor Wilhelmina Bratton; Councilmen Mary Lloyd Frank, Norma T. Price, Gordon Myers, Walter R. Boland, and Louis Bissette; Corporation Counsel William F. Slawter; City Manager Neal Creighton; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: None

INVOCATION

The invocation was given by Councilman Louis Bissette.

APPROVAL OF THE MINUTES - FEBRUARY 19, 1985 MEETING

1. Approval of the minutes of the February 19, 1985 meeting.

Mayor McDevitt announced that since Councilmembers have not had an opportunity to review the minutes, approval of the minutes of the February 19, 1985 meeting would be held over until the February 26, 1985 meeting.

PROCLAMATION - MARCH 3-9, 1985 - "ASHEVILLE AND BUNCOMBE COUNTY DRUG AWARENESS WEEK"

Mayor McDevitt read a joint proclamation proclaiming March 3-9, 1985 as "Asheville and Buncombe County Drug Awareness Week."

Mayor McDevitt presented the proclamation to Pete Banyai and Cleve Tidwell with Asheville "Pride.".

PUBLIC HEARING - ORDINANCE AMENDING THE CHARTER OF THE CITY OF ASHEVILLE REGARDING THE SELECTION OF MAYOR

2. A public hearing was held relative to the adoption of an ordinance amending the Charter of the City of Asheville regarding the selection of Mayor.

Mayor McDevitt said Resolution No. 83-209 relative to the process for election of the Mayor was unanimously adopted by the City Council of the City of Asheville on December 6, 1983, and said Resolution provided that the City Council go on record endorsing the concept of examining the feasibility of the Mayor being elected by the citizens rather than by the present process of being elected by the seven (7) members of the City Council. The City Council has continued to examine the feasibility of the direct election of the Mayor by all of the qualified voters of the City. This public hearing will afford the people of the City of Asheville the opportunity to voice their opinion on the Direct Election of Mayor.

Mayor McDevitt said Council would take no action on the ordinance at today's meeting, but the ordinance would be placed on the agenda for February 26, 1985 for action. He said this particular ordinance does not contain a provision to hold a referendum relative to the direct election of the Mayor. He said Council members could decide by the third reading of the ordinance whether or not to hold a referendum on the issue.

Upon inquiry of Council, Corporation Counsel Slawter said he felt Council would have a legal problem if they decided to make the moratorium retroactive. He said Council could pass the ordinance on second and third readings today. He said in researching Mr. Summey's plans, it is his opinion that Mr. Summey is meeting all requirements of the letter of the law. He said he did not feel Council has authority over Mr. Summey's proposed plans.

Mayor McDevitt said he would request to be excused from voting on the second and third readings of the moratorium ordinance, since he felt the issue indirectly involves Mr. Mike Summey, the Developer, and his law firm represents Mr. Summey. He said he felt there would be a conflict of interest.

Mr. Rowe said the issues brought to the attention of Council relative to the requirement of the subdivision ordinance that all lots abut on public right-of-way should be addressed by Council.

Mayor McDevitt renewed his request to be excused from voting on the second and third reading of Ordinance No. 1498, since his law firm represents Mr. Mike Summey, Developer, who is indirectly involved in the moratorium ordinance.

Councilman Boland moved to excuse Mayor McDevitt from voting on Ordinance No. 1498. This motion was seconded by Councilman Bissette and carried unanimously.

Mayor McDevitt said this ordinance was previously read on first reading and would not be re-read in its entirety unless there was a specific request to do so.

On a roll call vote of 6-0, Ordinance No. 1498 passed on second reading.

Councilman Boland moved to suspend the rules and proceed to the third reading of Ordinance No. 1498. This motion was seconded by Councilman Price and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1498 passed on third and final reading.

Complete text of Ordinance No. 1498 will be found in Ordinance Book No. 10 at Page 240.

ORDINANCE NO. 1499 - BUDGET ORDINANCE AMENDMENT TO PROVIDE FUNDING FOR THE ON-GOING INCENTIVE HOUSING (DOLLAR A LOT) PROJECT

4. Consideration was given to a Budget Ordinance Amendment to provide funding in the amount of $7,086 for on-going Incentive Housing (Dollar-A-Lot) project.

Mayor McDevitt said at its meeting on January 9, 1985, the Asheville Planning and Zoning Commission after hearing presentations by the Haw Creek Community Association, Inc. voted to recommend to the Asheville City Council that a 90 day moratorium be imposed on all development in the Haw Creek area. The stated purpose for said moratorium is as follows: To allow a study of existing conditions in the neighborhood to determine the ability of utility, roads and streets systems to accommodate additional growth. In addition the Commission recommended that staff study the zoning patterns of the neighborhood along with the ability of the school system to absorb any additional influx of students. This ordinance was read on first reading on February 19, 1985.

Verl Emrick, Director of Planning, said during the past week five (5) permits have been requested for five (5) separate buildings containing 4 units each on Melton Drive. He said Mr. Summey presented plans for five (5) different permits on separately owned parcels. He said under these conditions, the developers are not required to meet the requirements of the subdivision or group development section of the Zoning Ordinance.

Several Council members suggested that the subdivision ordinance be amended to prevent future problems of developers building a multi-unit apartment complex after his original plans were denied.

Gary Rowe, Attorney for the Haw Creek Homeowners Association and residents of Melton Drive, said he felt the action by Mr. Summey was an attempt to avoid compliance with the proposed moratorium. He said he felt, even though Mr. Summey is proposing to build on 5 separate lots, that his project should come under the Group Development section of the Zoning Ordinance. He cited several sections of the subdivision ordinance and Zoning Ordinance. He said, in his opinion, Mr. Summey may be complying with the letter of the law; but is not complying with the spirit of the law, and certainly not the spirit of the moratorium. he cited a portion of the subdivision ordinance that required "all lots have to abut on public right-of-way." He said all of Mr. Summey's lots do not abut on public right-of-way. He said the Haw Creek Homeowners Association and the residents of Melton Drive opposed the action of Mr. Summey. He suggested that Council amend the moratorium ordinance to include all zoning permits since last reading, and further requested that the second and third reading of the moratorium be held at today's meeting.

The following individuals spoke in opposition to the action taken by Mr. Summey, and further requested that the ordinance relative to the moratorium be passed on second and third readings today:

Pauline Tennant - Board Member of the Haw Creek Homeowners Association
Mr. Nichols - Haw Creek
Bill Tennant - Tennant Lane
Mr. Manley - Haw Creek

Councilman Frank said she had asked at the meeting of February 19, 1985, whether or not any permits had been issued or planned to the issued that would be affected by the moratorium, and she received a response that there were not any permits pending. She said the moratorium on developments will not solve the problems in Haw Creek, but would be a beginning.

Mayor McDevitt indicated that the Town of Biltmore Forest, the County of Buncombe, and private enterprise will be contributing to the cost of the sewer line in the South Buncombe annexation area.

Mayor McDevitt said members of Council were furnished copies of the ordinance and it would not be read in its entirety.

Councilman Bissette moved for the adoption of Ordinance No. 1500. This motion was seconded by Councilman Frank.

On a roll call vote of 7-0, Ordinance No. 1500 passed on first and final reading.

Complete text of Ordinance No. 1500 will be found in Ordinance Book No. 10 at page 245.

RESOLUTION NO. 85-10 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE ON BEHALF OF THE CITY OF ASHEVILLE A CONTRACT AND ANY CHANGE ORDERS WITHIN THE BUDGETED AMOUNT WITH HICKORY CONSTRUCTION COMPANY FOR THE PROJECT KNOWN AS GASHES CREEK ROAD BRIDGE REPLACEMENT PROJECT

6. Consideration was given to a resolution authorizing the Mayor to execute on behalf of the City of Asheville a contract with Hickory Construction Company for the project known as Gashes Creek Road Replacement Project.

Mayor McDevitt said Gashes Creek Road is in need of replacement due to its age and present condition. Gashes Creek Road Bridge is included in the Federal Aid Off-System Bridge Replacement Program. Bids were opened on the Gashes Creek Road Bridge Replacement Project on February 20, 1985. This resolution will authorize the Mayor to execute a contract and any change orders within the budgeted amount with Hickory Construction Company, low bidder on the Gashes Creek Road Bridge Replacement Project in the amount of $780,705.48. Sufficient funds are available in the Federal Aid Off-System Bridge Replacement Program.

Clark Brown, Director of Public Works, said the bidders on the project were Crowder Construction Company in the amount of $835,560.40; Taylor and Murphy Construction Company-$917,892.90; and Hickory Construction Company in the amount of $780,705.48.

Mayor McDevitt said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Frank, seconded by Councilman Price, Resolution No. 85-10 was unanimously adopted.

Complete text of Resolution No. 85-10 will be found in Resolution Book No. 15 at page 139.

BIDS - THREE (3) REFUSE COLLECTION VEHICLES

7. Consideration was given to bids received for three (3) refuse collection vehicles.

Mayor McDevitt said the Incentive Housing (Dollar-A-Lot) project was established in 1977 with Community Development funds as a residential, home ownership incentive program for low and moderate income families in the East Riverside Urban Renewal area. Families qualifying for this Community Development-Asheville Housing Authority program pruchased these urban renewal residential lots for one dollar, enabling low and/or moderate income families to build homes in the neighborhood. This program is still available in the East Riverside area supported by "property disposition funds" from the East Riverside Urban Renewal Project and has been extended to the East End/Valley Street Redevelopment area. Funds to continue support for this project are available from Community Development property disposition income in the East Riverside and East End/Valley Street area.

Barry Master, with the Pisgah Legal Services, requested a meeting with the City Council to discuss housing issues on behalf of his clients. He said the session would be relative to housing and community development City-wide, and particularly in the Montford area.

Mayor McDevitt said members of Council were furnished copies of the ordinance and it would not be read in its entirety.

Councilman Frank moved for the adoption of Ordinance No. 1499. This motion was seconded by Councilman Boland.

On a roll call vote of 7-0, Ordinance No. 1499 passed on first and final reading.

Complete text of Ordinance No. 1499 will be found in Ordinance Book No. 10 at page 244.

ORDINANCE NO. 1500 - BUDGET ORDINANCE AMENDMENT TO PROVIDE FUNDING FOR A SEWER LINE TO SERVE PROPOSED DEVELOPMENT IN THE SOUTH BUNCOMBE ANNEXATION AREA

5. Consideration was given to a budget ordinance amendment to provide funding for a sewer line to serve proposed development in the South Buncombe Annexation Area.

Mayor McDevitt said this ordinance will provide funding for a sewer line to serve a proposed development in the South Buncombe Annexation Area. The total cost of the project is estimated to be $400,000, of which the City will fund $120,000. The proposed development will generate additional ad valorem taxes in the estimated amount of $32,450 per year, which will result in a 3.7 year payback for the City's cost. Funding will be provided by use of uncommitted funds in the amount of approximately $500,000 designated for sewer line improvements to annexed areas. This will leave an uncommitted balance of approximately $280,000 in the sewer annexation reserve.

Bid Item No. B: One (1) each 13-Cubic Yard capacity refuse collectino vehicle with Packer body.

Mr. Brown recommends rejecting the low bid from Apple Tree Chevrolet for a 1985 Chevrolet Cab and Chassis with a Royal packer body and a Wayne dumping unit at $46,449.00 due to Wayne Manufacturing Company, manufacturer of the packer body dumping unit being involved in Chapter Eleven.

Mr. Brown recommends acceptance of the next low bid from Sanco Corporation for one (1) 1985 Ford F8000 Cab and Chassis with a Heil Formula 5000 packer body and a Barker dumping unit at $46,500.00."

Note: A copy of the bid summary sheet is on file in the City Clerk's office.

Councilman Frank moved to accept the recommendation to award the bid to Western Carolina Truck Center for two (2) 1985 White Xpeditor WX64 Cab and Chassis in the total amount of $156,929.40 and to Sanco Corporation for one (1) 1985 Ford F8000 Cab and Chassis in the amount of $46,500.00. This motion was seconded by Councilman Price and carried unanimously.

APPROVAL OF THE CONSENT AGENDA

8. Mayor McDevitt said the following items are of a routine nature and they have been previously reviewed by the members of the City Council. Therefore, by unanimous vote to approve these items, the City Council may, pursuant to the procedures established in Ordinance No. 1008, adopt all of the items with one motion without the full reading and/or separate motion adopting each individual item. Upon the request of a citizen, a member of the City Council, and/or a member of the City staff, any single item scheduled for approval on the consent agenda may be considered separately.

A. A motion scheduling a public hearing relative to rezoning property located at 1530 Hendersonville Road, requested by Oxford Development Enterprises, Inc. for Harry Clarke, Owner, from R-2 Residential District to R-3 Residential District for March 19, 1985.

HIGHLIGHTS:
The Asheville Planning and Zoning Commission at a meeting held February 6, 1985, considered the request of Oxford Development Enterprises, Inc. for Mr. Harry Clarke, Owner, that Ward 7, Sheet 60, Lots 1, 2, and 3 be rezoned from R-2 Residential District to CH Commercial Highway District. The property is located on Hendersonville Road. After review and discussion, the Commission voted to recommend to City Council that Ward 7, Sheet 60, Lots 1, 2, and 3, be rezoned from R-2 Residential District to R-3 Residential District.

B. Resolution No. 85-30 - Resolution authorizing the Mayor to sign an application to participate in the National Main Street Center - Urban Demonstration Program sponsored by the National Trust for Historic Preservation.

Mayor McDevitt said eight (8) bidders submitted proposals for three (3) refuse collection vehicles. Recommendations to accept bid from Western Carolina Truck Center for two (2) 1985 White Xpeditor WX64 Cab and Chassis in the total amount of $156,929.40, and to accept Sanco Corporation for one (1) 1985 Ford F8000 Cab and Chassis in the amount of $46,500.00. Sufficient funds are provided for these purchases in the Revenue Sharing Fund, Sanitation Division Account Code 50-428-074.

Clark Brown, Director of Public Works, reviewed the following memorandum:

"Pursuant to North Carolina General Statute 143-129, sealed bids were received to furnish three (3) refuse collection vehicles to the Sanitation Division. Eight (8) bidders submitted proposals as shown on the attached bid summary.

T. Clark Brown, Director of Public Works, has reviewed these bids for technical compliance to specifications. A copy of his recommendation is enclosed.

Please submit these bids to City Council with the recommendation to award as follows:

BID ITEM NO. A: Two (2) each 25 Cubic Yard Capacity Refuse Collection Vehicles with Packer body.

Mr. Brown recommends rejecting the three (3) low bids on the following basis:

Low Bid (#1): Western Carolina Truck Center for two (2) 1985 White Xpeditor Cab and Chassis with a Royal packer body, and Wayne dumping unit at $75,214.70 each, totaling $150,429.40. This bid is not recommended because Wayne Manufacturing Company, manufacturer of the packer body dumping unit is involved in Chapter Eleven.

Low Bid (#2): Public Works Equipment and Supply for two (2) 1985 Mack Cab and Chassis with a Leach 2R Packer body and Barker dumping unit at $76,930.00 each, totaling $153,860.00. This bid is not recommended because deficienciences were found in the Leach 2R ejection panel piston and the loading hopper.

Low Bid (#3): Western Carolina Truck Center for two (2) 1985 White Xpeditor Cab and Chassis with a Load Master pack body model LM-125 and CWDD dumping unit at $77,104.70 each, totaling $154,209.40. This bid is not recommended because the Load Master body Model LM-125 has not been approved or evaluated by the Public Works Division.

Mr. Brown recommends acceptance of the bid from Western Carolina Truck Center for two (2) 1985 White Xpeditor WX64 Cab and Chassis with a Heil Formula 5000 packer body and Barker dumping unit at $78,464.70 each, totaling $156,929.40.

HIGHLIGHTS:
The term of office of Osborne M. Hart as Chairman of the City of Asheville Board of Alcoholic Control expired on November 13, 1984. It is provided by Chapter 1083 of the 1947 Session Laws of the State of North Carolina that the City Council shall designate the Chairman of the Board.

Complete text of Resolution No. 85-15 will be found in Resolution Book No. 15 at page ~~144~~. 154

Upon motion of Councilman Frank, seconded by Councilman Price, the Consent Agenda was unanimously adopted.

MOTION RELATIVE TO AMENDING CONTRACT BETWEEN CITY OF ASHEVILLE AND JOHN A. BROADBROOKS

At the request of the Corporation Counsel, Councilman Boland moved to amend the contract between the City of Asheville and John A. Broadbrooks, dated December 18, 1984, to delete the responsibility of John A. Broadbrooks to retain professional liability insurance, since the City of Asheville currently carries insurance to cover this liability. This motion was seconded by Councilman Bissette and carried unanimously.

CLAIMS - GERALDINE SERVERSON (WATER) - BARBARA SPAIN (SANITATION) - CHRISTINE LONGORIA (STREETS) - RAYMOND WATKINS (WATER)

The City Manager presented claims received from Geraldine Serverson, Barbara Spain, Christine Longoria, and Raymond Watkins.

Mayor McDevitt referred the claims to the Corporation Counsel for investigation and recommendation.

LAWSUITS - HARRY ADAMS VS CITY OF ASHEVILLE (RETIREMENT SYSTEM) - ASHEVILLE HOUSING AUTHORITY VS CONDEMNATION OF ANNA BUXTON JACOBS' PROPERTY (EAST END/VALLEY STREET) - ASHEVILLE HOUSING AUTHORITY VS CONDEMNATION OF RACHEL ESTHER DICKSON PROPERTY (EAST END/VALLEY STREET)

The City Manager said the City was served with summonses in connection with lawsuits involving Harry Adams VS City of Asheville - alleged negligence in providing information for participation in the Local Government Retirement System; Asheville Housing Authority involving condemnation of Anna Buxton Jacobs' property in the East End/Valley Street area; and Asheville Housing Authority involving condemnation of Rachel Esther Dickson property in the East End/Valley Street area.

Mayor McDevitt referred the summonses to the Corporation Counsel for investigation and recommendation.

RALPH BISHOP - LOTTERY SALES IN THE CITY OF ASHEVILLE

Ralph Bishop again spoke to members of Council relative to the lottery sales in the City of Asheville and the problems with the Asheville Police Department.

HIGHLIGHTS:
The City of Asheville has been invited to submit an application for participation in the Main Street Urban Demonstration Program. This program will afford additional opportunities for the continued revitalization of Asheville's downtown. The City Council feels that participation in this program is in the best interest of the community-at-large. There is an estimated cost of $85,000 over a three-year period; however, this resolution will not commit the City to funding at this time.

Complete text of Resolution No. 85-~~11~~ 22 will be found in Resolution Book No. 15 at page ~~140~~ 150.

C. Resolution No. 85-~~12~~ 21 - Resolution establishing a Deferred Compensation Plan for employees of the City of Asheville.

HIGHLIGHTS:
This fringe benefit will offer employees of the City of Asheville an additional retirement option. No direct cost associated with this fringe benefit.

Complete text of Resolution No. 85-~~12~~ 21 will be found in Resolution Book No. 15 at page ~~141~~ 151.

D. Resolution No. 85-~~13~~ 22 - Resolution authorizing free parking at metered parking spaces March 1, 2, and 3, 1985 for the Southern Conference Basketball Tournament.

HIGHLIGHTS:
The Southern Conference Basketball Tournament will be held March 1, 2, and 3 in the Asheville Civic Center. The City wishes to encourage attendance at the tournament and to waive metered parking charges on these dates. There will be a negative effect upon revenues of approximately $350.00 which is not included in the current budget, but revenues are higher than expected so there would be no drastic effect.

Complete text of Resolution No. 85-~~13~~ 22 will be found in Resolution Book No. 15 at page ~~142~~ 152.

E. Resolution No. 85-~~14~~ 23 - Resolution authorizing the City Manager to sign a service agreement with Motorola Communications and Electronics, Inc.

HIGHLIGHTS:
The current agreement with Motorola Communications and Electronics, Inc., will expire on February 28, 1985. Motorola Communications and Electronics, Inc., has submitted a proposal to the City to continue providing maintenance service to the radio system for three (3) years under the same terms as the existing Agreement with no increase in per-unit cost and with additional services to be provided at no cost. This agreement will extend current contract costs for an addtional three years, without any increase in cost. This will keep radio maintenance costs frozen at current budgeted amounts.

Complete text of Resolution No. 85-~~14~~ 23 will be found in Resolution Book No. 15 at page ~~143~~ 153.

F. Resolution No. 85-~~15~~ 24 - Resolution appointing Osborne M. Hart as Chairman of the Board of Alcoholic Control.

Tuesday - March 5, 1985 - 4:00 p.m.

Regular Meeting

Present: Mayor Larry McDevitt, Presiding; Vice-Mayor Wilhelmina Bratton; Councilmen Mary Lloyd Frank, Gordon Myers, Walter R. Boland, and Louis Bissette; Corporation Counsel William F. Slawter; City Manager Neal Creighton; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Councilman Norma Price

INVOCATION

The invocation was given by Councilman Gordon Myers.

APPROVAL OF THE MINUTES - FEBRUARY 19, 1985 MEETING

1. Approval of the minutes of the February 19, 1985 meeting.

Council Boland noted a typographical error on page 44 of the February 19, 1985, minutes.

Mayor McDevitt announced the approval of the minutes of February 19, 1985 meeting with the change noted.

APPROVAL OF THE MINUTES - FEBRUARY 26, 1985 MEETING

2. Approval of the minutes of the February 26, 1985 meeting.

Councilman Frank noted a typographical error on page 47 of the February 26, 1985, minutes.

Mayor McDevitt announced the approval of the minutes of the February 26, 1985, meeting with the change noted.

PROCLAMATION - "VOLLEYBALL WEEK" - MARCH 4-10, 1985

Mayor McDevitt read a proclamation proclaiming March 4-10, 1985, as "Volleyball Week."

The proclamation was presented to Donny Luke, President of the Asheville Volleyball Club.

Ray Kisiah, Director of Parks, Recreation and Public Facilities, said the volleyball tournament to be held in Asheville this weekend is the biggest tournament in the United States, and would have an economic impact of over $500,000 to the City of Asheville.

ADJOURNMENT TO EXECUTIVE SESSION

Councilman Price moved to adjourn to Executive Session to discuss legal and real estate matters. This motion was seconded by Councilman Frank and carried unanimously.

Larry McDevitt
MAYOR

William F. McCarthy
CITY CLERK

Councilman Bissette said the direct election of the Mayor would be proper in our democratic society. He said the responsibility of a Mayor is more difficult than that of a Council member, and a lot more time and commitment is involved for the Mayor.

Ralph Bishop spoke in favor of the direct election of the Mayor.

Bob Smith spoke in support of the ordinance providing for the direct election of the Mayor.

Vice-Mayor Bratton said she was in favor of the direct election of the Mayor.

Mayor McDevitt said he had grave misgivings about the issue of direct election of the Mayor. He said the Mayor is only part of a complete team. He said there is a great deal of interest in a more open form of government, and he felt this would be a symbol of that perception. He said the direct election of a Mayor would increase public interest and participation.

Councilman Boland moved for the adoption of Ordinance No. 1501. This motion was seconded by Councilman Myers.

On a roll call vote of 6-0, Ordinance No. 1501 passed on first reading.

RESOLUTION NO. 85-~~17~~ 26a - RESOLUTION REQUESTING NORTH CAROLINA GENERAL ASSEMBLY APPROVAL OF ENABLING LEGISLATION IN SUPPORT OF A FAIR HOUSING ORDINANCE FOR ASHEVILLE

6. Consideration was given to a resolution requesting enactment of enabling legislation granting the City of Asheville the authority to enact a Fair Housing Ordinance.

Mayor McDevitt said the City of Asheville is committed to affirmative action programs that benefit the citizens of this community by supporting the goals set by the U. S. Department of Housing and Urban Development (HUD). It is in the best interest of the citizens of the City of Asheville that a local fair housing ordinance be enacted. In order for the City of Asheville to have the authority to enact a local fair housing ordinance, the North Carolina General Assembly must enact enabling legislation granting that authority to the City.

Mayor McDevitt said the request of the General Assembly to enact such legislation was a part of the legislative package already presented to the local delegates.

Mayor McDevitt said members of Council were furnished copies of the resolution and it would not be read in its entirety.

At the request of Ralph Bishop, Mayor McDevitt briefly outlined the provisions in the proposed Fair Housing Ordinance.

RESOLUTION NO. 85-16 - RESOLUTION OF COMMENDATION AND APPRECIATION TO WILLIAM "BILL" DEBRUHL

3. Consideration was given to a resolution of commendation and appreciation for William "Bill" DeBruhl.

Vice-Mayor Bratton noted that William "Bill" DeBruhl has served the citizens of Asheville as a dedicated City employee since January 20, 1960, and announced his retirement effective February 28, 1985.

Upon motion of Councilman Myers, seconded by Councilman Boland, Resolution No. 85-16 was unanimously adopted.

Complete text of Resolution No. 85-16 will be found in Resolution Book No. 15 at page 145.

ORDINANCE NO. 1501 - AN ORDINANCE AMENDING THE CHARTER OF THE CITY OF ASHEVILLE TO PROVIDE FOR DIRECT ELECTION OF THE MAYOR BY ALL THE QUALIFIED VOTERS OF THE CITY

4. Consideration was given to an ordinance amending the Charter of the City of Asheville to provide for direct election of the Mayor by all the qualified voters of the City of Asheville.

Mayor McDevitt said Resolution No. 83-209 relative to the process for election of the Mayor was unanimously adopted by the City Council of the City of Asheville on December 6, 1983, and said Resolution provided that the City Council go on record endorsing the concept of examining the feasibility of the Mayor being elected by the citizens rather than by the present process of being elected by the seven (7) members of the City Council. The City Council has continued to examine the feasibility of the direct election of the Mayor by all of the qualified voters of the City. A public hearing was held on February 26, 1985, relative to this ordinance.

Mayor McDevitt said the proposed ordinance, as currently written, would provide for an effective date 10 days after the adoption of the ordinance. However, Council would have the opportunity to amend the ordinance on third reading to provide for an effective date after a referendum.

Mayor McDevitt said members of Council were furnished copies of the ordinance and it would not be read in its entirety.

Councilman Frank said she had received a lot of input from the citizens of Asheville relative to the direct election of the Mayor. She said it has determined that there is a trend in the country that citizens want to be involved in the process for election of the Mayor.

Councilman Boland said there was of divisiveness associated with the present method of Council selecting the Mayor. He said the method of direct election of the Mayor would attract highly qualified candidates for Mayor. He noted that this change for electing the Mayor would not change the form of government for the City of Asheville.

Resolution No. 85-~~25~~ 30 ac
Resolution No. 85-~~26~~ 29 ac

B. Resolution No. 85-~~27~~ 28 Resolution appointing members to the Zoning Board of Adjustment.

HIGHLIGHTS: This resolution will appoint Pam Nickless, Rudy J. Stenafac, and Jan Bryant to the Zoning Board of Adjustment.

Complete text of Resolution No. 85-~~27~~ 28 will be found in Resolution Book No. 15 at page ~~148-150~~ 159-160 man
85-~~28~~ 29
85-~~29~~ 30

C. Resolution No. 85-~~28~~ 31 Cl - Resolution appointing members to the Asheville-Buncombe Community Relations Council.

HIGHLIGHTS: This resolution will reappoint Gladys Forney and Jesse Ray, Jr. to the Asheville-Buncombe Community Relations Council.

Complete text of Resolution No. 85-~~28~~ 31 will be found in Resolution Book No. 15 at page ~~161~~ 14 man

D. Resolution No. 85-~~29~~ 32 ac - Resolution authorizing the City Manager to sign an agreement with Southern Bell Telephone and Telegraph Company for the use of Southern Bell conduit as part of the City's new telephone system.

HIGHLIGHTS: Approval of an agreement with Southern Bell Telephone and Telegraph Company to use Southern Bell conduit as part of the new telephone system. The conduit will connect the City Hall building with the Civic Center. There is no charge for the conduit except Southern Bell's charges for being present whenever Continental Telephone Company of North Carolina is working on the conduit. Using the conduit will save the City about $7,550 which would have been required to make the City's conduit system ready for telephone cable. This will be a savings to the City of approximately $7,550.

Complete text of Resolution No. 85-~~29~~ 32 will be found in Resolution Book No. 15 at page ~~152~~ 162 man

Upon motion of Councilman Frank, seconded by Councilman Bissette, the consent agenda was unanimously adopted.

CLAIMS - DONNA RAINEY (STREETS) - MARJORIE JONES (STREETS) - SHELDON JOHNSON (SEWER) - PEGGY RAMSEY (SEWER)

The City Manager presented claims received from Donna Rainey, Marjorie Jones, Sheldon Johnson, and Peggy Ramsey.

Mayor McDevitt referred the claims to the Corporation Counsel for investigation and recommendation.

SCHEDULING PUBLIC HEARING - PROVIDING FOR STAGGERED TERMS FOR THE ZONING BOARD OF ADJUSTMENT

Councilman Frank moved to schedule a public hearing relative to amending the Zoning Ordinance to allow for staggered terms for members of the Zoning Board of Adjustments for March 26, 1985. This motion was seconded by Vice-Mayor Bratton and carried unanimously.

Councilman Boland said the adoption of a Fair Housing Ordinance would allow local enforcement of problems dealing with apartment rentals.

Ralph Bishop spoke in opposition to the resolution stating that this would provide invasion of privacy for citizens.

Upon motion of Councilman Boland, seconded by Councilman Bissette, Resolution No. 85-17 was unanimously adopted.

Complete text of Resolution No. 85-17 will be found in Resolution Book No. 15 at page ~~146.~~ 156

SCHEDULING PUBLIC HEARING - PROPERTY ADJACENT TO ASHEVILLE MALL - R. L. COLEMAN COMPANY

7. Consideration was given to a motion scheduling a public hearing relative to rezoning property adjacent to Asheville Mall requested by R. L. Coleman for March 26, 1985.

Councilman Frank moved to schedule a public hearing relative to rezoning property adjacent to Asheville Mall requested by R. L. Coleman Company for March 26, 1985. This motion was seconded by Councilman Bissette and carried unanimously.

APPROVAL OF CONSENT AGENDA

8. Mayor McDevitt said the following items are of a routine nature and they have been previously reviewed by the members of the City Council. Therefore, by unanimous vote to approve these items, the City Council may, pursuant to the procedures established in Ordinance No. 1008, adopt all of the items with one motion without the full reading and/or separate motion adopting each individual item. Upon the request of a citizen, a member of the City Council, and/or a member of the City staff, any single item scheduled for approval on the consent agenda may be considered separately.

A. Resolution No. 85-~~18~~ - Resolution directing the City Clerk to advertise an offer for the purchase of City owned property on Roberts Street.

HIGHLIGHTS: An offer has been received from Supply Specialities, Inc., to purchase City of Asheville property located on Roberts Street in the amount of $2,613.00. This resolution will authorize the City Clerk to advertise the sale of this property pursuant to N.C. General Statute 160A-269.

Complete text of Resolution No. 85-~~18~~ will be found in Resolution Book No. 15 at page ~~147.~~ 157

As representatives of the people of the City of Asheville, I believe it is our duty and responsibility to take every legal step necessary to be certain that Asheville Cablevision is strictly complying with its responsibilities to the City and to its subscribers. In the event that it is necessary to proceed, I would hope that the Council would seriously consider my request at that time and take action on it as soon as possible. Thank you very much."

Councilman Bissette said he would report back to Council whether or not Asheville Cablevision is willing to accept his request to return to the basic rate service charge.

Mayor McDevitt suggested that Councilman Bissette chair the Council committee relative to the cable television issue.

RALPH BISHOP - LOTTERY SALES IN THE CITY OF ASHEVILLE

Mr. Ralph Bishop spoke to members of Council relative to the lottery sales in the City of Asheville.

ADJOURNMENT

Upon motion of Councilman Frank, seconded by Vice-Mayor Bratton, the meeting adjourned at 4:55 P.M.

Larry McDevitt
MAYOR

Miriam F. McCrary
CITY CLERK

COUNCILMAN BISSETTE'S REQUEST - ASHEVILLE CABLEVISION CHANGES

Councilman Bissette read the following statement:

"As you all know, and I expect you have received the same kind of complaints that I think the City of Asheville has received in the last few days regarding the changes in the basic residential service provided by American Cable TV Investors, which does business in Asheville as Asheville Cablevision. These changes effectively reduce the basic services provided to residential customers by removing ESPN, WTBS in Atlanta, WDCA in Washington, and WBTV in Charlotte from the basic service and placing these channels in another service tier with an increased monthly charge. In place of these popular stations on the basic service, Asheville Cablevision has added a combination financial news and religious channel; C-Span, a channel providing 24-hour coverage of the House of Representatives; a weather channel; and WGGS, another religious channel from Greenville, South Carolina. In order to receive ESPN, WTBS, WDCA, and WBTV, subscribers must now pay $15.65 per month which represents a 62% increase over the current basic rate of $9.65, which was approved by the Asheville City Council in February of 1984.

I voted for the rate increase in February of 1984 based upon the basic programming services which were provided by Asheville Cablevision at that time. In my view, Asheville Cablevision has breached its understanding with the Asheville City Council regarding the $9.65 basic rate which was approved based upon certain programming representations made to the City Council at the time the rate increase was requested.

It appears to me, and apparently to many of our citizens, that this recent service change may be an attempt by Asheville Cablevision to circumvent the City Council's rate setting authority. If this attempt goes unchallenged, then the City Council's ability to regulate our cable TV franchise in the future will be seriously limited. In 1967, the City of Asheville granted an exclusive cable TV franchise to the Thoms Broadcasting Company for a period of 35 years. This franchise was assigned to Asheville Cablevision in 1983. By granting this franchise, the City gave to Thoms, and subsequently to its assignee, Asheville Cablevision, the exclusive right to provide cable TV services in the City of Asheville until the year 2002. In effect, the City granted the franchisee a monopoly.

Throughout the history of our country, when monopolies have been granted, the proper governing authorities have been given the right to regulate the rates charged to the public. This is extremely important in monopoly situations because there is no possibility of free and open competition. A monopoly service is literally, in this case, the only game in town.

I am today calling upon Asheville Cablevision to return its basic programming service to the format that existed at the time the last rate increase was approved. In the event Asheville Cablevision refuses to return the pre-existing basic program service, I would call on the City Council, together with the City Attorney, to thoroughly investigate Asheville Cablevision's compliance with all of the terms of the existing franchise agreement. I would suggest that a Council committee be established to review Asheville Cablevision's latest actions regarding the recent program changes, as well as the total service which Asheville Cablevision is providing to the citizens of Asheville under its franchise. I believe that this review should also include a public hearing at which time the citizens of Asheville could make their feelings known, both to us and to Asheville Cablevision.

Fiscal Year 1985. The expenditures for this project will include 50-50 match between local and federal funds.

Local	$492,410
Federal	$492,409
	$984,819

The funds are placed in the correct budget.

Mayor McDevitt opened the public hearing at 4:17 p.m.

The City Clerk presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Carl Owenby, with the Asheville Transit Authority, said this was an annual grant received from the Urban Mass Transportation Department for transit operating assistance.

Mayor McDevitt closed the public hearing at 4:20 p.m.

Upon motion of Councilman Frank, seconded by Councilman Bissette, Resolution No. 85-24 was unanimously adopted.

Complete text of Resolution No. 85-~~24~~ 33 will be found in Resolution Book No. 15 at page ~~153~~ and ~~154~~.

ORDINANCE NO. 1501 - AN ORDINANCE AMENDING THE CHARTER OF THE CITY OF ASHEVILLE TO PROVIDE FOR DIRECT ELECTION OF THE MAYOR BY ALL THE QUALIFIED VOTERS OF THE CITY

3. Consideration was given to the second reading of Ordinance No. 1501, an ordinance amending the Charter of the City of Asheville to provide for direct election of the Mayor by all the qualified voters of the City.

Mayor McDevitt said Resolution No. 83-209 relative to the process for election of the Mayor was unanimously adopted by the City Council of the City of Asheville on December 6, 1983, and said Resolution provided that the City Council go on record endorsing the concept of examining the feasibility of the Mayor being elected by the citizens rather than by the present process of being elected by the seven (7) members of the City Council. The City Council has continued to examine the feasibility of the direct election of the Mayor by all of the qualified voters of the City. A public hearing was held on February 26, 1985 relative to this ordinance. This ordinance passed on first reading on Marcy 5, 1985.

Mayor McDevitt said this ordinance was previously read on first reading and would not be reread in its entirety unless there was a specific request to do so.

On a roll call vote of 6-0, Ordinance No. 1501 passed on second reading.

Tuesday - March 12, 1985 - 4:00 p.m.

Regular Meeting

Present: Mayor Larry McDevitt, Presiding; Vice-Mayor Wilhelmina Bratton; Councilmen Mary Lloyd Frank, Norma T. Price, Gordon Myers, and Louis Bissette; Corporation Counsel William F. Slawter; City Manager Neal Creighton; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Councilman Walter Boland

INVOCATION

The invocation was given by Scott Fowler.

APPROVAL OF THE MINUTES - OF THE MARCH 5, 1985 MEETING

1. Approval of the minutes of the March 5, 1985 meeting.

Mayor McDevitt announced the approval of the minutes of the March 5, 1985 meeting as submitted.

PRESENTATION BY GARRETT ALDERFER - CHAMBER OF COMMERCE

Mr. Garrett AlDerfer, Executive Director of the Asheville Area Chamber of Commerce presented members of Council a copy of the "Sunbelt Success Stretching Across America Reaching Around the World 1984 Literature and Promotional Materials Award" from the Southern Industrial Council. He said this award was presented to the Asheville Area Chamber of Commerce for the Chamber's and the City of Asheville's participation in producing the recent "Quality of Life Publication".

Mr. AlDerfer said there would be regional and national awards forthcoming, and they would also be shared with members of Council.

PUBLIC HEARING - UMTA GRANT - OPERATING ASSISTANCE

RESOLUTION NO. 85-37d - RESOLUTION AUTHORIZING THE FILING OF AN APPLICATION WITH THE DEPARTMENT OF TRANSPORTATION, UNITED STATES OF AMERICA, FOR A GRANT UNDER THE URBAN MASS TRANSPORTATION ACT OF 1964, AS AMENDED

2. A public hearing was held relative to a resolution authorizing the filing of an application with the Department of Transportation, United States of America, for a grant under the Urban Mass Transportation Act of 1984, as amended.

Mayor McDevitt said this public hearing will afford the citizens of Asheville an opportunity to express their opinions relative to an Urban Mass Transportation grant for transit operating assistance. This resolution will approve filing of an UMTA Grant application for 50% funding from the United States Department of Transportation for transit operating assistance for

Mayor McDevitt said the North Carolina Department of Transportation and the City of Asheville propose to make certain street and traffic improvements within the City of Asheville under Project 9.8130277, Buncombe County, consisting of the installation of a closed-loop signal system. This project will provide for the installation of new traffic signal equipment in the Central Business District of Asheville on both City and N.C.D.O.T. system streets. The N.C.D.O.T. has agreed to fund the entire project and allow the City to reimburse the Department of Transportation the City's share (estimated to be $258,020) over a five (5) year period beginning in FY 1986-87.

Bob McDonald, Traffic Engineer, said this new system will replace the existing twenty year old equipment. He said in order of priorities, Patton Avenue would be first, then Biltmore Avenue, Hilliard Avenue and Haywood Street. He said it would take approximately two or two and one-half years to complete the installation of the new controllers.

Mayor McDevitt said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Price, seconded by Councilman Frank, Resolution No. 85-25 was unanimously adopted.

Complete text of Resolution No. 85-~~25~~ 34 will be found in Resolution Book No. 15 at page ~~155~~ 165 and ~~156~~. 166

RESOLUTION NO. 85-~~24~~ 35 - RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT FOR CONSULTANT SERVICES WITH TRAFFIC SYSTEMS INTERNATIONAL, LTD.

6. Consideration was given to a resolution authorizing the Mayor to enter into a contract for consultant services with Traffic Systems International, Ltd.

Mayor McDevitt said this resolution will authorize the Mayor to enter into an agreement with Traffic Systems International, Ltd. to design, procure and install new traffic signal system in the Central Business District of Asheville. $25.215.00 is available in the 1984-85 capital budget for the Traffic Engineering Division.

Upon motion of Councilman Frank, seconded by Councilman Myers, Resolution No. 85-26 was unanimously adopted.

Complete text of Resolution No. 85-~~26~~ 35 will be found in Resolution Book No. 15 at page ~~156~~. 167

SCHEDULING PUBLIC HEARING - ADOPTION OF RESOLUTION REOPENING KENILWORTH DRIVE AT ITS INTERSECTION WITH PICKWICK ROAD

7. Consideration was given to a motion scheduling a public hearing relative to the adoption of a resolution reopening Kenilworth Drive at its intersection with Pickwick Road for April 2, 1985.

Mayor McDevitt said a resolution calling for a vote of the people relative to the ordinance regarding the direct election of the Mayor will be placed on the agenda for consideration at next week's meeting. He said at that time Council members could decide whether or not to place the ordinance on a special ballot to be considered by the qualified voters of the City.

ORDINANCE NO. 1502 - AN ORDINANCE AMENDING CHAPTER 2, ARTICLE III (ASHEVILLE TRANSIT AUTHORITY), SECTION 2-39 OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE

4. Consideration was given to an ordinance amending Chapter 2, Article III (Asheville Transit Authority), Section 2-39 of the Code of Ordinances of the City of Asheville.

Mayor McDevitt said this ordinance will change the term of members from five (5) years to four (4) years. Any member may be relieved of service at any time, in the discretion of the City Council.

Mayor McDevitt said members of Council were furnished copies of the ordinance and it would not be read in its entirety.

Councilman Price moved for the adoption of Ordinance No. 1502. This motion was seconded by Councilman Frank.

On a roll call vote of 6-0, Ordinance No. 1502 passed on first reading.

Councilman Price moved to suspend the rules and proceed to the second reading of Ordinance No. 1502. This motion was seconded by Councilman Bissette and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1502 passed on second reading.

Councilman Price moved to suspend the rules and proceed to the third reading of Ordinance No. 1502. This motion was seconded by Councilman Bissette and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1502 passed on third and final reading.

Complete text of Ordinance No. 1502 will be found in Ordinance Book No. 10 at page 251...34 a

RESOLUTION NO. 85-~~36~~ - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A MUNICIPAL AGREEMENT BETWEEN THE CITY OF ASHEVILLE AND THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION FOR TRAFFIC SIGNAL IMPROVEMENTS WITHIN THE CITY OF ASHEVILLE

5. Consideration was given to a resolution authorizing the Mayor to execute a municipal agreement between the City of Asheville and the North Carolina Department of Transportation for traffic signal improvements within the City of Asheville.

He said at that time, Council would decide what, if any, action would be taken. He said a joint City/County Cable Television Study Committee meeting would be held on Wednesday, March 13, 1985, to discuss the recent changes made by Asheville Cablevision. However, Council's concerns relative to the changes in cable television service would be handled by the Council.

Councilman Price said she had received a number of complaints relative to the changes in the service for the basic service.

Vice-Mayor Bratton thanked Councilman Bissette for his efforts and said he would have the Council's complete support.

Councilman Myers said he was disappointed in Asheville Cablevision's General Manager's comments and said he thought, not only the Council, but the citizens of the community deserve some answers, other than the blunt statement in the newspaper. He said he had not seen such a controversy in some time, and hopes something else is forthcoming of a positive nature.

COUNCIL WORK SESSION - THURSDAY - APRIL 4, 1985 - 4:00 P.M.

Mayor McDevitt announced that Council would have a work session on Thursday, April 4, 1985 at 4:00 p.m.

ADJOURNMENT

Councilman Price moved to adjourn the meeting at 4:45 p.m. This motion was seconded by Councilman Bissette and carried unanimously.

Larry McDevitt
MAYOR

William F. Walcott
CITY CLERK

Mayor McDevitt said a petition has been received, signed by numerous residents of the Kenilworth Area and others, requesting that the City Council reopen Kenilworth Drive for the benefit of the motoring public. This resolution, if adopted, will rescind the City Council's action of February 21, 1984 to close Kenilworth Drive and will authorize the reopening of said street at its intersection with Pickwick Road. This public hearing will afford the citizens of the area to voice their opinions on the reopening of the road.

Councilman Bissette moved to schedule a public hearing relative to the adoption of a resolution reopening Kenilworth Drive at its intersection with Pickwick Road for April 2, 1985. This motion was seconded by Councilman Frank and carried unanimously.

RESOLUTION NO. 85-~~27~~ 36a - RESOLUTION APPOINTING MEMBERS TO CABLE TELEVISION STUDY COMMITTEE - (LaMONT DeBRUHL AND DR. RUDY OGLESBY)

8. Consideration was given to a resolution appointing LaMont DeBruhl and Dr. Rudy Oglesby as members of the Cable Television Study Committee.

Upon motion of Vice-Mayor Bratton, seconded by Councilman Bissette, Resolution No. 85-27 was unanimously adopted.

Complete text of Resolution No. 85-~~27~~ 36a will be found in Resolution Book No. 15 at page ~~137~~ 168 more.

CLAIMS - JAMES KILGORE (PARKING GARAGE)

The City Clerk presented a claim received from James Kilgore.

Mayor McDevitt referred the claim to the Corporation Counsel for investigation and recommendation.

COMMENTS BY COUNCILMAN PRICE - MONTFORD PLANNING COMMITTEE

Councilman Price said she had attended a meeting on Monday night, March 11, 1985. She said the meeting was well attended by Montford residents, and they expressed concerns of reported crimes in the area and requested help from the Asheville Police Department in this area. She said the residents were hopeful that other Council members would attend the meeting being held this week.

COMMENTS RELATIVE TO CABLE TELEVISION CHANGES

Mayor McDevitt said during the pre-Council work session, Councilman Bissette was asked to work, on behalf of the City Council, with the City Attorney and the City Manager to look into the situation regarding the cable television franchise and the compliance with the franchise. He said Council would be taking no formal steps until there has been an opportunity for Asheville Cablevision to respond to Councilman Bissette's letter requesting that the channels that were moved from the basic service to a higher priced tier, March 1 be moved back to the basic service. He said a report would be given next week relative to their findings and a response from the company.

PUBLIC HEARING - REZONING PROPERTY LOCATED AT 1530 HENDERSONVILLE ROAD - OXFORD DEVELOPMENT ENTERPRISES, INC.

ORDINANCE NO. 1503 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING FOR THE CITY OF ASHEVILLE" AS AMENDED - PROPERTY LOCATED ON HENDERSONVILLE ROAD - "OXFORD DEVELOPMENT ENTERPRISE, INC., PETITION"

3. A public hearing was held relative to rezoning property located at 1530 Hendersonville Road requested by Oxford Development Enterprises, Inc., for Harry Clarke, owner, from R-2 Residential District to R-3 Residential District.

Mayor McDevitt said the Asheville Planning and Zoning Commission at a meeting held February 6, 1985, considered the request of Oxford Development Enterprises, Inc., for Mr. Harry Clarke, Owner, that Ward 7, Sheet 60, Lots 1, 2, and 3, be rezoned from R-2 Residential District to CH Commerical Highway District. The property is located on Hendersonville Road. After review and discussion, the Commission voted to recommend to City Council that Ward 7, Sheet 60, Lots 1, 2, and 3, be rezoned from R-2 Residential District to R-3 Residential District.

Mayor McDevitt opened the public hearing at 4:13 P.M.

The City Clerk presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said the Planning and Zoning Commission recommended the rezoning to R-3 Residential District, rather than the CH Commercial Highway District requested by the petitioner. He said there were no objections received relative to the rezoning.

After discussion, Mayor McDevitt closed the public hearing at 4:16 P.M.

Mayor McDevitt said members of Council were furnished copies of the ordinance and it would not be read in its entirety.

Councilman Boland moved for the adoption of Ordinance No. 1503. This motion was seconded by Councilman Frank.

On a roll call vote of 7-0, Ordinance No. 1503 passed on first reading.

ORDINANCE NO. 1501 - AN ORDINANCE AMENDING THE CHARTER OF THE CITY OF ASHEVILLE TO PROVIDE FOR DIRECT ELECTION OF THE MAYOR BY ALL THE QUALIFIED VOTERS OF THE CITY

4. Consideration was given to the third reading of Ordinance No. 1501, an ordinance amending the charter of the City of Asheville to provide for direct election of the Mayor by all the qualified voters of the City.

Tuesday - March 19, 1985 - 4:00 p.m.

Regular Meeting

Present: Mayor Larry McDevitt, Presiding; Vice-Mayor Wilhelmina Bratton; Councilmen Mary Lloyd Frank, Norma T. Price, Gordon Myers, Louis Bissette, and Walter Boland; Corporation Counsel William F. Slawter; City Manager Neal Creighton; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: None

INVOCATION

The invocation was given by Councilman Walter Boland.

APPROVAL OF THE MINUTES - MARCH 12, 1985 MEETING

1. Approval of the minutes of the March 12, 1985, meeting.

Mayor McDevitt announced the approval of the minutes of the March 12, 1985, meeting as submitted.

RESOLUTION NO. 85-37A - RESOLUTION COMMENDING ASHEVILLE HIGH SCHOOL FOR ITS PARTICIPATION IN THE INTERNATIONAL EXCHANGE PROGRAM AND RECOGNIZING THE FOREIGN EXCHANGE STUDENTS AND TEACHERS FROM JAPAN, LIBERIA, BELGIUM, GERMANY, AND THAILAND THAT ARE PARTICIPATING IN THE PROGRAM

2. Consideration was given to a resolution commending Asheville High School on their participation in the International Exchange Program and recognizing the foreign exchange students and teachers from Japan, Liberia, Belgium, Germany, and Thailand that are participating in the program.

Mayor McDevitt recognized Eloise Beam, from Asheville High School, who explained that the Council of International Education and the National Association of Secondary School Principals are sponsoring a student exchange program from March 12 to April 3, 1985, at which time Asheville High School is hosting the foreign exchange students from Kofu, Japan. She said Asheville High School is also hosting American Field Service Exchange Students from Germany, Liberia, and Belgium; and one teacher from Thailand.

Mayor McDevitt read the resolution.

Upon motion of Councilman Frank, seconded by Councilman Price, Resolution No. 85-28 was unanimously adopted. 37A

Complete text of Resolution No. 85-37A will be found in Resolution Book No. 15 at page ~~158~~ 169 Mon

Mayor McDevitt presented each student and teacher with a welcome letter and a copy of the resolution adopted by Council.

Councilman Frank moved to authorize the Mayor to forward a letter to the Buncombe County Legislative Delegation requesting that the City Charter be amended on the requirement of the Mayor to vote. This motion was seconded by Councilman Myers and carried unanimously.

Vice-Mayor Bratton thanked members of Council for their time and effort in passing this ordinance that she had previously requested.

BIDS - NINE (9) TRUCKS OF VARIOUS SIZES FOR CITY OF ASHEVILLE

6. Consideration was given to bids received for purchasing nine (9) trucks of various sizes for the City of Asheville.

Mayor McDevitt said nine (9) bids were received to furnish three (3) 3/4 ton pickup trucks and one (1) ton Cab & Chassis for Parks, Recreation and Public Facilities; one (1) 1/2 ton pickup truck for Asheville Transit Authority; two (2) Cab and Chassis with dump body for Public Works Department, Street Division; one (1) cab and chassis with dump body for Public Works Department, Sanitation Division; and one (1) 3/4 ton pickup with utility body for Public Works Department, Traffic Engineering Division.

AWARD RECOMMENDATIONS:

Item A - Two (2) each 3/4 ton heavy duty pickup trucks for Parks, Recreation, and Public Facilities.

Matthews Ford, Inc. for 2985 Ford F250 H.D.	$8,242.00 ea.	$ 16,484.00

Item B - One each 3/4 ton heavy duty, four-wheel drive pickup truck for Parks, Recreation, and Public Facilities.

Carolina Truck & Body for 1985 GMC TK 20903-E63-C6P	9,882.10

Item C - One each ½ ton heavy duty, four-wheel drive pickup truck for Asheville Transit Authority.

Carolina Truck & Body for 1985 GMC TK 20903-E63-C6P-B3J	11,465.93

Item D - One each 3/4 ton heavy duty cab and chassis with utility body for Public Works Department, Traffic Engineering Division.

Matthews Ford, Inc. for 1985 Ford F250 w/Knapheide #796 body	10,094.00

Item E - One each one (1) ton heavy duty cab and chassis for Parks, Recreation, and Public Facilities.

Carolina Truck & Body for 1985 GMC TC 31003-ZW9-C7C	9,997.55

Mayor McDevitt said Resolution No. 83-209 relative to the process for election of the Mayor was unanimously adopted by the City Council of the City of Asheville on December 6, 1983, and said Resolution provided that the City Council go on record endorsing the concept of examining the feasibility of the Mayor being elected by the citizens rather than by the present process of being elected by the seven (7) members of the City Council. The City Council has continued to examine the feasibility of the direct election of the Mayor by all of the qualified voters of the City. A public hearing was held on February 26, 1985, relative to this ordinance.

Mayor McDevitt said this ordinance was previously read on first and second reading, and would not be reread in its entirety unless there was a specific request to do so.

On a roll call vote of 7-0, Ordinance No. 1501 passed on third and final reading.

Complete text of Ordinance No. 1501 will be found in Ordinance Book No. 10 at page 246-250..

RESOLUTION NO. _____ - A RESOLUTION CALLING FOR A VOTE OF THE PEOPLE ON ORDINANCE NO. 1501, REGARDING THE DIRECT ELECTION OF THE MAYOR BY THE VOTERS

5. Consideration was given to a resolution calling for a vote of the people on Ordinance No. 1501 regarding the direct election of the Mayor by the voters.

Mayor McDevitt said the Asheville City Council has this day adopted Ordinance No. 1501, an ordinance amending the Charter of the City of Asheville to provide for the direct election of the Mayor by all the qualified voters of the City. This resolution provides that it shall take effect only if it is approved by a vote of the people. N.C. General Statutes Section 160A-102 provides that if an ordinance if so adopted, the council may by resolution call a special election for the purpose of submitting the ordinance to a vote. This resolution will request the Buncombe County Board of Elections to hold a special election in May for this purpose.

Mayor McDevitt said members of Council were furnished copies of the resolution, and it would not be read in its entirety unless there was a specific request to do so.

Councilman Price moved for the adoption of the resolution calling for a vote of the people on Ordinance No. 1501.

Councilman Price's motion died for the lack of a second.

Mayor McDevitt noted that no referendum would be held on the ordinance amending the charter of the City of Asheville to provide for the direct election of the Mayor.

Mayor McDevitt said Council had been advised by the Corporation Counsel that there were several sections in the City Charter that the General Assembly needed to clarify relative to the Mayor's requirement to vote.

B. Resolution No. 85-~~X~~ 39a - Resolution authorizing the Purchasing Director to dispose of personal property by private sale.

HIGHLIGHTS: This resolution will authorize the Purchasing Director to dispose of accumulated surplus property in the Water Maintenance Division pursuant to N.C. G.S. 160A-267.

FISCAL IMPACT: Estimated revenue of $2,000 - $3,000 which is not currently appropriated in the budget.

Complete text of Resolution No. 85-~~X~~ 39a will be found in Resolution Book No. 15 at page ~~160~~ 171 thru 172.

C. Resolution No. 85-~~X~~ 40a - Resolution authorizing the Mayor to sign an application requesting the State Historic preservation officer to certify the City of Asheville as a certified local government program.

HIGHLIGHTS: The National Historic Preservation Amendments Act of 1980 requires that each state establish a procedure by which general local governments may be certified to participate in the national framework for historic preservation established by the National Historic Preservation Act of 1966. The State of North Carolina has defined minimum requirements for local governments to become certified local governments pursuant to the Preservation Act. Upon certification, the City of Asheville will become eligible to compete for funding from the Federal Historic Preservation Fund and will gain authority to review all future nominations to the National Register that are located within the City limits of the City of Asheville.

Complete text of Resolution No. 85-~~X~~ 40a will be found in Resolution Book No. 15 at page 161. 162 thru

D. Resolution No. 85-~~X~~ 41a - Resolution approving a request for the participation of the North Carolina Housing Finance Agency in financing an apartment project to be located on Sweeten Creek Road.

HIGHLIGHTS: Fralin and Waldron, Incorporated proposes to build a rental apartment complex, consisting of approximately 186 one and two bedroom apartment units and related recreational facilities, to be located in the County of Buncombe on the east side of Sweeten Creek Road directly to the south of Stockwood Subdivision partially within the Asheville City limits. The Developers of said apartments are requesting the participation of the North Carolina Housing Finance Agency in financing a program for housing for persons of lower income under appropriate federal legislation. N.C. General Statute Section 122A-5 requires that such participation may take place only upon the approval of the request for such participation by the governing body of the county, city or town in which such project has to be located. The Buncombe County Commissioners have previously passed a similar resolution, Resolution No. 18057.

Item F - Two each cab and chassis with dump body for Public Works Department, Street Division.

Hickory Int'l Truck Sales for 1985 International F2574 w/16' Virginian Body.	50,285.00	100,570.00

Item G - One each cab and chassis with dump body for Public Works Department, Sanitation Division.

Matthews Ford, Inc. for 1985 Ford F600 w/ Fontaine Body		15,955.00
TOTAL AWARDS (As Recommended)		$174,448.58

A complete bid summary for the nine (9) trucks is on file in the Office of the City Clerk.

Councilman Price moved to award the bids as recommended and outlined by Mayor McDevitt. This motion was seconded by Councilman Boland and carried unanimously.

APPROVAL OF CONSENT AGENDA

7. Consideration was given to a motion approving the consent agenda.

Mayor McDevitt said the following items are of a routine nature, and they have been previously reviewed by the members of the City Council. Therefore, by unanimous vote to approve these items, the City Council may, pursuant to the procedures established in Ordinance No. 1008, adopt all of the items with one motion without the full reading and/or separate motion adopting each individual item. Upon the request of a citizen, a member of the City Council, and/or a member of the City staff, any single item scheduled for approval on the consent agenda may be considered separately.

A. Resolution No. 85-~~30~~ 31 - Resolution abolishing the City Personnel Advisory Commission.

HIGHLIGHTS: The City Personnel Advisory Commission was established April 1, 1982. The Commission was established to study and evaluate existing policies, practices and procedures with regard to City personnel, including, but not limited to, Civil Service, grievance procedures and working conditions. The Commission has provided the City Council with valuable recommendations as a result of this study. No further study or evaluation is anticipated to be requested from the Commission. This resolution will abolish the City Personnel Advisory Commission.

Complete text of Resolution No. 85-~~30~~ 31 will be found in Resolution Book No. 15 at page ~~159~~ 170 mm

Two, I would like to include an examination of Asheville Cablevision's current levels of service and a determination of whether or not they are complying with our franchise agreement and with the FCC regulations. This would include perhaps the development of a questionnaire or survey which would be transmitted to the citizens of Asheville for a response on their feelings regarding the current levels of service and/or a public hearing on the matter to give our citizens the right to be heard. The committee would also review the terms of our existing franchise agreement and whether or not Asheville Cablevision is complying with all of the terms in that agreement, and I am speaking primarily of certain services which they have agreed to provide to the City and the school system and certain requirements which they have got in the franchise agreement for providing information to the City.

And finally, I would envision the committee reviewing the legal and economic alternatives which might be available to the City which might permit additional competition in the cablevision area."

This motion was seconded by Councilman Price and carried unanimously.

Councilman Price moved that the committee be called the Ad Hoc Council Cablevision Commission; and that the members consist of Councilman Bissett; Councilman Myers, and Harold Bennett; and that the Commission give a report to the City Council on their findings within 30 days; and further, that the City Attorney be authorized to work with the Commission relative to cable television. This motion was seconded by Vice-Mayor Bratton and carried unanimously.

At the request of John Jerose, General Manager of Asheville Cablevision, Councilman Bissette outlined the previously adopted motion relative to cablevision.

VICE-MAYOR BRATTON - REPORT RELATIVE TO SATELLITE DISHES IN THE CITY OF ASHEVILLE

Vice-Mayor Bratton requested that the City Manager look into any current provisions and any proposed recommendations relative to the proper control of the installation of satellite dishes in the City of Asheville.

RALPH BISHOP - LOTTERY PEDDLERS IN THE CITY OF ASHEVILLE

Ralph Bishop spoke to members of Council relative to the lottery sales in the City of Asheville.

ADJOURNMENT

Vice-Mayor Bratton moved to adjourn the meeting at 5:10 P.M. This motion was seconded by Councilman Myers and carried unanimously.

Larry M. Battle
MAYOR

William F. Moore
CITY CLERK

Complete text of Resolution No. 85-~~X~~ 41a will be found in Resolution Book No. 15 at page ~~162.~~ 173 mon

E. Resolution No. 85-~~X~~ 42a - Resolution appointing a member to the Crime Stoppers Committee.

HIGHLIGHTS: This resolution will appoint Doug Blizard to the Crime Stoppers Committee.

Complete text of Resolution No. 85-~~X~~ 43a will be found in Resolution Book No. 15 at page ~~163.~~ 174 mon

AMENDMENT TO GENERAL SERVICE ADMINISTRATION EASEMENT

At the request of the Corporation Counsel, Vice-Mayor Bratton moved to authorize the Mayor to sign an amended easement in favor of the General Services Administration amending the easement authorized by City Council on December 11, 1984, for the placing of subsurface telephone conduits beneath Battery Park Avenue between the Federal Building and the United States Post Office Building. This amended easement deletes paragraph 8 of the original easement providing for indemnification to the City for damages caused by acts and omissions of General Service Administration in connection with the easement and provides in lieu thereof for indemnification in acccordance with the Federal Tort Claims Act. This motion was seconded by Councilman Price and carried unanimously.

CLAIMS - JOSEPH ROYER (POLICE) - W. W. BRAME (WATER) - CHERRY BANKS (WATER) - BONNIE CAMERON (STREETS) - TIMOTHY RIDDLE (POLICE)

The City Manager presented claims received from Joseph Royer, W. W. Brame, Cherry Banks, Bonnie Cameron, and Timothy Riddle.

Mayor McDevitt referred the claims to the Corporation Counsel for investigation and recommendation.

COMMENTS RELATIVE TO CABLE TELEVISION CHANGES - COUNCILMAN BISSETT

Councilman Bissette said he was requested to report back this week on any response that he might have received from Asheville Cablevision and also any recommendation that he might have. He said he received a letter today from Mr. John Jerose, General Manager of Asheville Cablevision. He said the letter concluded that Asheville Cablevision was not at this time prepared to either take a look at returning any of their programming to its previous level or reducing its basic rate. So, based upon that response, Councilman Bissette moved that Council appoint an Ad Hoc committee to be charged with reviewing the following areas of concern which have arisen in regard to the existing relationship of Asheville Cablevision:

"One would be the City's legal basis for either enforcing a roll-back in programming to previous levels at least to the end of August, 1985, and/or reducing the approved basic rate of $9.65 based upon the reduced programming levels and comparable rates which are charged in other cities.

Councilman Frank said Council's primary concern is the education of the school children. She said Council may have only seriously considered three candidates, but have a list of at least twenty-five people who have been interested in the position.

Vice-Mayor Bratton said Council's decision relative to the Asheville School Board should be based on qualifications of an individual. She said the Asheville School Board is presently out of balance racially.

Wendy Yeatman urged members of Council to delay its decision on filling the vacancy created by Mr. Price. She said the citizens of Asheville need an opportunity to educate themselves, and have some input relative to the appointment. She said she felt as a parent, the community needs a chance to see who is interested in this new vacancy.

Mayor McDevitt said he had personally interviewed all three candidates, plus other people interested in being appointed on the Asheville School Board in the last two to three weeks. He said he had heard from hundreds in the community relative to this appointment, and he appreciated the community's input into selecting an individual to serve on the Asheville School Board.

On a roll call vote, Councilman Frank's motion to consider filling the vacancy on the Asheville School Board created by Mr. Price carried 5-2, with Councilman Myers and Councilman Boland voting "no".

Mayor McDevitt then asked for nominations for appointment of one person to the Asheville City School Board for a four (4) year term.

Vice-Mayor Bratton nominated Harriet Haith.

Councilman Frank nominated Betsy Simons.

Councilman Boland nominated Lucy Butterworth.

Councilman Boland moved that the nominations be closed. This motion was seconded by Councilman Bissette and carried unanimously.

Upon inquiry of Councilman Price, Corporation Counsel Slawter said in his opinion there would be no conflict of interest of Councilman Price voting on the issue of appointment to the Asheville School Board. He said the only two incidences in which a conflict of interest occurs is when an issue concerns one's own financial interest or official conduct. He said in this particular incidence, this is not applicable.

Councilman Price said she felt free to vote on the appointments. She said, in her opinion, Betsy Simons should be reappointed to the School Board for the four year term. She said she also felt Harriet Haith should be appointed to fill the vacancy created by the resignation of Patrick Price, and she intended to cast her votes in this manner.

Tuesday - March 26, 1985 - 4:00 p.m.

Regular Meeting

Present: Mayor Larry McDevitt, Presiding; Vice-Mayor Wilhelmina Bratton; Councilmen Mary Lloyd Frank, Norma T. Price, Gordon Myers, Walter R. Boland, and Louis Bissette; Corporation Counsel William F. Slawter; Deputy City Clerk, Carol Hensley and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: City Manager Neal Creighton.

INVOCATION

Councilman Bissette read a prayer written by Rev. Charles Johnson of Asheville.

APPROVAL OF THE MINUTES - OF THE MARCH 19, 1985 MEETING

1. Approval of the minutes of the March 19, 1985 meeting.

Mayor McDevitt announced the approval of the March 19, 1985 meeting as submitted.

RESOLUTION NO. 85-434 - RESOLUTION APPOINTING MEMBER TO THE ASHEVILLE SCHOOL BOARD (HARRIET HAITH)

2. Consideration was given to a resolution appointing a member to the Asheville School Board.

Mayor McDevitt said J. Patrick Price, Chairman of the Asheville School Board had resigned on March 25, 1985, creating a second vacancy on the School Board. He said during the pre-Council meeting, Council discussed whether or not to consider this vacancy at today's meeting. He said the individual filling this vacancy would fill the unexpired term of Patrick Price.

Councilman Frank moved that Council consider filling the vacancy created by the resignation of Patrick Price on the School Board at today's meeting. This motion was seconded by Vice-Mayor Bratton.

Councilman Boland requested that Council postpone action on filling this vacancy for at least two weeks. He said there may well be a number of people who are interested in filling that position. He said the public also should be given an opportunity to participate in this selection. He said an Administrator at UNC-A had expressed an interest in being appointed on the Asheville School Board approximately three weeks ago. He said he had encouraged her not to since there were three people being considered for that vacancy. He said he was also concerned about Council moving forward so rapidly to fill the vacancy created by Mr. Price. He said he felt like Council would be responding to Mr. Price's resignation and his suggestion of appointing Betsy Simons.

Upon motion of Vice-Mayor Bratton, seconded by Councilman Frank, Resolution No. 85-35 was unanimously adopted.

Complete text of Resolution No. 85-~~35~~ 44a will be found in Resolution Book No. 15 at page 165.

Vice-Mayor Bratton commended Pat Price for serving many countless hours on the Asheville School Board. She requested that Council place a Resolution of Appreciation on the agenda next week.

Mayor McDevitt said he appreciated the input and interest of the community, and the interest expressed by Mrs. Haith, Mrs. Simons, and Mrs. Butterworth. He also expressed appreciation to Pat Price for his many years of service on the Asheville School Board.

PUBLIC HEARING - REZONING PROPERTY ADJACENT TO ASHEVILLE MALL

ORDINANCE NO. 1504 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE" AS AMENDED - PROPERTY LOCATED ON PERIMETER OF ASHEVILLE MALL (R. L. COLEMAN, JR. PETITION)

3. A public hearing was held relative to rezoning property adjacent to Asheville Mall requested by R. L. Coleman Company.

Mayor McDevitt said the Planning and Zoning Commission reviewed the request at its regular meeting on February 6, 1985 and delayed action requesting the R. L. Coleman Company and the Kenilworth Forest Association to meet to attempt to reach some compromise on several issues which were producing an impass and report to the Commission on February 27, 1985. At the February 27, 1985 meeting, the Commission voted to approve a portion of the rezoning request. In addition, the Commission voted to provide additional R-3 buffers to assist in protecting the White Pine Drive areas.

Mayor McDevitt opened the public hearing at 4:40 p.m.

The Associate City Manager presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Veri Emrick, Director of Planning, said the Asheville Planning and Zoning Commission at a meeting held on February 27, 1985 recommended a modified rezoning of the request of R. L. Coleman Company, He said since that time the R. L. Coleman Company has appealed the decision of the Planning and Zoning Commission, and requested that Council hold a public hearing on the entire area requested to be rezoned.

Mr. Emrick said there were three separate portions of property on the perimeter of the Asheville Mall that was requested to be rezoned in order for the Asheville Mall to have additional parking and expansion of the present Mall.

Ralph Bishop told members of Council they should be concerned mainly with educating the children of the City of Asheville, and should leave color and prejudiceness behind.

On a roll call vote of 5-2, Mrs. Harriet Haith was appointed to the Asheville School Board, with Councilman Price and Councilman Frank voting for Betsy Simons.

Mayor McDevitt read the resolution appointing Harriet Haith as a member of the Asheville School Board for a term of four (4) year term.

Upon motion of Vice-Mayor Bratton, seconded by Councilman Bissette, Resolution No. 85-34 was unanimously adopted.

Complete text of Resolution No. 85-~~34~~ will be found in Resolution Book No. 15 at page ~~164~~.

RESOLUTION NO. 85-~~34~~ - RESOLUTION APPOINTING MEMBER OF ASHEVILLE SCHOOL BOARD (BETSY SIMONS)

Mayor McDevitt said Council would now consider filling the vacancy on the Asheville School Board created by the resignation of Patrick Price.

Councilman Frank nominated Betsy Simons.

Councilman Boland nominated Lucy Butterworth.

Councilman Price moved that the nomination be closed. This motion was seconded by Councilman Bissette.

Corporation Counsel Slawter said, as discussed during the pre-Council meeting, that if Betsy Simons should be appointed to fill the vacancy created by Mr. Price, this appointment should be made effective April 1, 1985, since her present term does not expire until April 1, 1985. He said, however, that if Mrs. Butterworth is appointed, her term could begin immediately.

Vice-Mayor Bratton said in order to keep the balance on the Asheville School Board, she would be supporting Betsy Simons.

Councilman Boland said he had talked to all three prospective candidates. He said they are all good candidates, however he would be supporting Lucy Butterworth since he felt she was articulate, experienced, a strong leader, independent, and well respected in the community. He said she had also served on the Asheville School Advisory Council.

On a roll call vote of 5-2, Betsy Simons was appointed to the Asheville School Board to fill the vacancy created by Mr. Price, with Councilman Boland and Councilman Myers voting for Lucy Butterworth.

Mayor McDevitt read the resolution appointing Betsy Simons as a member of the Asheville School Board for the unexpired term of Patrick Price, which terms expires on April 1, 1987. He said this resolution would take effect on April 1, 1985.

to be rezoned are primarily to provide parking areas required by the Zoning Ordinance, the needs of the Mall, and parking required by the lessee's of the Mall. He said negotiations between R. L. Coleman Company and the residents were made in good faith and the R. L. Coleman Company has agreed to a number of requests by the community, including making Bracketown Road a one-way entrance. He said in the negotiations, the property owners of the Kenilworth Association have been requested to release restrictive covenants on certain lots required for parking and expansion of the Mall.

Mr. Stevens answered general questions from members of Council relative to the proposed rezoning and expansion of the Mall.

Mayor McDevitt requested that the Kenilworth Association and the R. L. Coleman Company try to determine the status of the release of the restrictive covenants on the lots in questions prior to the third reading of the ordinance.

Councilman Bissette said he had received complaints from the residents in the area and in particular around the fence of the Mall where trash gathers.

Mr. Stevens said the R. L. Coleman Company stands ready to correct any problems that the residents may have relative to the operation of the Asheville Mall.

Danie Johnson, Architect for the R. L. Coleman Company, outlined the details for the basic expansion and renovation of the existing Mall. He said the expansion calls for a new wing beginning at the exit between Belks and Iveys that would include a new department store; expansion of the Belks and Sears Department Stores; and a million dollars worth of improvements to the Mall's common area, including renovations to all existing store fronts, replacement of the fountain with a larger one, skylights, and garden style plantings. He said the plan also calls for a parking deck consisting of 700 parking spaces.

Mr. Johnson showed interior sketches of the proposed renovations and expansion of the Asheville Mall. He said provisions have been made not to directly affect residential adjacent land owners.

Mr. Johnson said the rezoning is necessary for the culmination of expansion and renovation of the Mall.

Mr. Johnson then presented "Plan B", which is an alternate plan that would address the concerns expressed by the residents in the Kenilworth community. He outlined the changes that would be made in "Plan B" from "Plan A" which would include moving the proposed parking deck to the north, removing the top deck, providing additional buffering on the Johnson property, and providing a one-way exit along Bracketown Road. He said "Plan B" can be constructed only if the restrictive covenants are released from the Kenilworth Association on affected lots. He said the developer had agreed and compromised with the residents in the Kenilworth area, and this would result in plans for a formal agreement between the R. L. Coleman Company and

Mr. Emrick said the Planning and Zoning Commission would be considering the site plan for the Mall expansion after Council has made a decision on the rezoning request. He said the site plan is expected to be presented to the Planning and Zoning Board during its April meeting.

Mr. Emrick said the recommended rezoning by the Planning and Zoning Commission would provide the additional parking required if the expansion occurs, and would provide a fifty foot buffer adjoining White Pine Drive.

Mr. Emrick said, at the Planning and Zoning meeting, concerns were expressed relative to the access to the Mall from Bracketown Road. He said his staff is presently conducting a legal research to determine the status of ownership of Bracketown Road. He said at the present time there are no records that show the road was ever officially accepted by the City as part of the City Street System. He said this area was only a right-of-way for the City.

Mr. Emrick answered general questions from members of Council relative to the Planning and Zoning Commission's recommendation of the rezoning.

Councilman Boland said he had received a number of letters from residents in the Kenilworth community concerned about preserving the area, and making sure that buffering would be provided between the commercial lots and the residential area. He said he had also received complaints relative to nuisance problems in the area. He said he had received a complaint from a Mrs. Willard relative to drainage problems she was having because of the construction of the Mall.

Mayor McDevitt noted that members of Council had discussed the drainage problem of Mrs. Willard in Pre-Council and had authorized the City Manager to have the line in the area flushed by a high powered flusher on Wednesday, March 27, 1985. He said the City staff would determine if that would rectify her problem of drainage.

Mayor McDevitt said, in his opinion, to make rezoning contingent upon strict buffering is tantamount to contract zoning. He said Council should primarily consider the approval of the rezoning petition or the modified recommendation by the Planning and Zoning Commission.

Mr. Emrick said a petition had been filed with the Planning and Zoning Commission, signed by ninety-one property owners, in opposition to the rezoning. He said the petition is valid, but did not carry the sufficient number of signatures to require the three-fourth vote of members of Council for approval of the rezoning.

Jack Stevens, Attorney for R. L. Coleman Company spoke in support of the rezoning. He said he felt the rezoning and the expansion of the Mall is within the public interest, and would provide growth and development for Buncombe County. He said, in his opinion, if another mall is built in the Asheville area, it would probably be built in the County. He said it would be important to maintain a basic separation from the Mall and the residential area. He said the present Mall has been in place for about twelve years and the proposed expansion will only be increased by about 10 percent of the present Mall. He said substantial efforts have been made by the R. L. Coleman Company to cooperate with the residents. He said the areas requested

Mrs. Janice Willard of White Pine Drive spoke to members of Council relative to the inadequate drainage of water on her property, which she said was created by the construction of the Asheville Mall. She said she had furnished pictures of her house and yard showing the drainage problem to Councilman Boland. She said she would like to see additional buffering required around the Mall, particularily in the parking area and the theatre since the public sometimes uses this area for immoral purposes. She said she would prefer that the Mall be buffered with a high concrete wall for protection for her property. She also said the fence around the Mall area is a litter problem.

Upon inquiry of Mayor McDevitt, Mrs. Willard said she had noticed the water flooding her yard and home approximately two years after the original Mall was constructed.

Mayor McDevitt again informed Mrs. Willard that the City would be attempting to flush the line in her area with a high powered flusher, which might possibly resolve this concern.

Charlotte Clark of 294 White Pine Drive said she had experienced the same problems as Mrs. Willard. She said she also had sewerage backup since the Asheville Mall Theatre was built. She expressed concern that the sweeping machine is operated by the Asheville Mall between 12:00 Midnight and 3:00 a.m., which disturbs the neighborhood. She requested that the dumpster in the area be moved to another location.

After discussion, Mayor McDevitt closed the public hearing at 7:07 p.m.

Mayor McDevitt said members of Council were furnished copies of the ordinance rezoning the property as recommended by the Planning and Zoning Commission and it would not be read in its entirety unless that was a specific request to do so.

After discussion, Councilman Price moved to deny the rezoning petition requested by the R. L. Coleman Company, and to approve Ordinance No. 1504 as recommended by the Planning and Zoning Commission with the stipulation that a map be attached to the ordinance marked "Exhibit A" describing the property to be rezoned. This motion was seconded by Councilman Bissette.

On a roll call vote of 7-0, Ordinance No. 1504 passed on first reading.

Mayor McDevitt asked that the record show that Councilman Boland voted "aye" due to being absent without being excused.

Mayor McDevitt commended the developer and the residents for their efforts in attempting to reach a compromise agreement.

the residents on issues such as buffering, fencing, and access to the Mall site. He said in addition to other elements of the compromise, the R. L. Coleman Company offered to pay for an attorney for the residents to develop their end of the contract. He said they had also agreed to deed the park areas in the subdivision to the Kenilworth Association. He said without the community's assistance, the R. L. Coleman Company would be forced to implement Plan A.

Councilman Boland left the meeting at 6:05 p.m. without being excused.

Harold Payne, Co-Chairman of the Kenilworth Forest Association, gave a brief history of the construction of the Asheville Mall since July, 1965. He presented copies of minutes of several meetings whereby Council had made specific stipulations on the construction of the original Mall. He said at that time one of the conditions was to have no access on White Pine Drive. He said this condition had been violated.

Mr. Payne said the initial reaction of the Kenilworth Association was to oppose the renovation and expansion of the Mall, which would be Plan A. He said, however, the Kenilworth Association agreed that the Asheville Mall had been there a number of years and would remain there. He said in view of the situation, the Kenilworth Association had agreed to negotiate with the developer for the expansion of the Mall in exchange for benefits for the community. He said he felt the residents would move toward encouraging "Plan B" which would cause less problems for the community than Plan A. He said the majority of the residents of the Kenilworth Association had agreed to release the restrictive covenants, if a compromise in the form of a formal agreement can be worked out between R. L. Coleman Company and the residents to the satisfaction of both parties. He said the community wanted to make sure that they did not get tricked in to specific conditions that were not met like they did when the Mall was originally built.

Mayor McDevitt said he had received a letter from the R. L. Coleman Company agreeing to cooperate with the residents. He said the letter stipulated a number of agreed to points by the R. L. Coleman Company.

Mr. Payne, in answer to Mayor McDevitt, said the community could live with the Planning and Zoning recommendation for rezoning, if the residents can obtain a legally binding agreement from the R. L. Coleman Company. He said the residents did not want to be unreasonable, but just wanted protection for their neighborhood. He said Attorney Bob Long had been contacted to draft language for the formal agreement. He said the R. L. Coleman Company had agreed to pay for their attorney's expense.

Gerald Gentry, Co-President of the Kenilworth Association, said the residents are moving as quickly as possible to enter into a formal agreement. He said he could not guarantee that the community would release the restrictive covenants, but the Association would do their best in reaching a compromise. He said the residents would prefer that Bracketown Road be closed; however, if that cannot be done, then they would prefer it being made one-way into the Mall.

Jerry Bradley spoke to members of Council relative to the rezoning and said a one-way entrance to the Mall from Bracketown Road would be better than an exit from the Mall.

ORDINANCE NO. 1506 - AN ORDINANCE AMENDING SECTION 1-2 OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE

5. Consideration was given to an ordinance amending Section 1-2 of the Code of Ordinances of the City of Asheville.

Mayor McDevitt said the definition of "Council" contained in Section 1-2 of the Code of Ordinances of the City of Asheville be amended to read as follows with the underlined portion representing change: "The words "the council" or "city council" shall mean the city council of the City of Asheville, North Carolina, including six council members and the mayor.

Mayor McDevitt said members of Council were furnished copies of the ordinance and it would not be read in its entirety unless there was a specific request to do so.

Councilman Price moved for the adoption of Ordinance No. 1506. This motion was seconded by Councilman Bissette.

On a roll call vote of 7-0, Ordinance No. 1506 passed on first reading.

Mayor McDevitt asked that the record show that Councilman Boland voted "aye" due to being absent without being excused.

ORDINANCE NO. 1503 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED. - PROPERTY LOCATED ON HENDERSONVILLE ROAD (OXFORD DEVELOPMENT ENTERPRISES, INC. PETITIONER)

6. Consideration was given to the second reading of Ordinance No. 1503, an ordinance relative to rezoning property located at 1530 Hendersonville Road, requested by Oxford Development Enterprises, Inc. for Harry Clarke, Owner, from R-2 Residential District to R-3 Residential District.

Mayor McDevitt said this ordinance was previously read on first reading and would not be reread in its entirety unless there was a specific request to do so.

On a roll call vote of 7-0, Ordinance No. 1503 passed on second reading.

Mayor McDevitt asked that the record show that Councilman Boland voted "aye" due to being absent without being excused.

Councilman Price moved to suspend the rules and proceed with the third reading of Ordinance No. 1503. This motion was seconded by Councilman Myers and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1503 passed on third and final reading.

Mayor McDevitt asked that the record show that Councilman Boland voted "aye" due to being absent without being excused.

PUBLIC HEARING - PROVIDING FOR STAGGERED TERMS ON THE BOARD OF ADJUSTMENT

ORDINANCE NO. 1505 - AN ORDINANCE AMENDING ARTICLE 8 (BOARD OF ADJUSTMENT), SECTION 30-8-2 OF ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED, TO PROVIDE STAGGERED TERMS ON THE BOARD OF ADJUSTMENT

4. A public hearing was held relative to the adoption of an ordinance amending Article 8 (Board of Adjustment), Section 30-8-2 of Ordinance No. 322, known as "An ordinance providing for the zoning of the City of Asheville," as amended, to provide staggered terms on the Board of Adjustment.

Mayor McDevitt said the board shall consist of four (4) regular members appointed by the City Council for a term of three (3) years and one regular member who is a resident of the extraterritorial area appointed by the County Commissioners for a term of three (3) years. There shall also be appointed seven (7) alternate members, five (5) who are city residents appointed by City Council, and two (2) appointed by the County Commissioners who are residents of the extraterritorial area. The alternate members shall serve only in the absence of a regular member. Provided, however, that the regular members and alternate members to be appointed by the City Council in 1985, two (2) regular members and two (2) alternate members shall be appointed for three-year terms; one (1) regular member and two (2) alternate members shall be appointed for two year terms; and one (1) regular member and one (1) alternate member shall be appointed for one year terms. Upon the expiration of the terms appointed in 1985, any subsequent appointments by the City Council shall be for a term of three (3) years.

Mayor McDevitt opened the public hearing at 7:38 p.m.

The Associate City Manager presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

After discussion, Mayor McDevitt closed the public hearing at 7:39 p.m.

Mayor McDevitt said members of Council were furnished copies of the ordinance and it would not be read in its entirety unless there was a specific request to do so.

Councilman Price moved for the adoption of Ordinance No. 1505. This motion was seconded by Councilman Myers.

On a roll call vote of 7-0, Ordinance No. 1505 passed on first reading.

Mayor McDevitt asked that the record show that Councilman Boland voted "aye" due to being absent without being excused.

Complete text of Resolution No. 85-45a will be found in Resolution Book No. 15 at page 166. 177

ORDINANCE NO. 1508 - BUDGET ORDINANCE FOR TAX SHELTERING EMPLOYEES MEDICAL COSTS

9. Consideration was given to a budget ordinance amendment for tax sheltering employees medical costs.

Mayor McDevitt said this amendment would provide funds not to exceed $3,000 for consulting services to tax shelter employee contributions for medical insurance. This study is estimated to cost $2,000 - $3,000 and will be of benefit to City employees. There will be no on-going cost for the program.

Mayor McDevitt said members of Council were furnished copies of the ordinance and it would not be read in its entirety unless there was a specific request to do so.

Councilman Frank moved for the adoption of Ordinance No. 1508. This motion was seconded by Councilman Myers.

On a roll call vote of 7-0, Ordinance No. 1508 passed on first and final reading.

Mayor McDevitt asked that the record show that Councilman Boland voted "aye" due to being absent without being excused.

Complete text of Ordinance No. 1508 will be found in Ordinance Book No. 10 at page 259.

RESOLUTION NO. 85-46a - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH HUTCHINSON AND ASSOCIATES, INC. FOR PROFESSIONAL CONSULTANT SERVICES

10. Consideration was given to a resolution authorizing the City Manager to enter into an agreement with Hutchinson and Associates, Inc. for professional consultant services.

Mayor McDevitt said this resolution will authorize the City to retain consultant services in connection with qualifying the City's Hospitalization/Medical Insurance Program through the Internal Revenue Service allowing employee contributions for dependent insurance coverage to be tax sheltered. The cost of this service will be between $2,000-$3,000. This was budgeted by the previously adopted budget amendment.

Mayor McDevitt said members of Council were furnished copies of the resolution and it would not be read in its entirety unless there was a specific request to do so.

Upon motion of Councilman Frank, seconded by Councilman Myers, Resolution No. 85-46a was unanimously adopted.

Complete text of Resolution No. 85-46a will be found in Resolution Book No. 15 at page 167. 178

Complete text of Ordinance No. 1503 will be found in Ordinance Book No. 10 at page 252-253.

ORDINANCE NO. 1507 - BUDGET ORDINANCE AMENDMENT - REPAIRS AND RENOVATIONS TO CITY HALL AND SOUTH CHARLOTTE STREET OPERATIONS FACILITIES

7. Consideration was given to a budget ordinance amendment to carry out plans for repairs and renovations to City Hall and South Charlotte Street operations facilities.

Mayor McDevitt said this amendment will establish an appropriation in the amount of $20,000 to carry out plans for City Hall repairs and renovations and South Charlotte Street operations facilities. The funding required to prepare plan of $20,000 will be provided from General Capital Reserve Funds. The uncommitted balance of said funds is estimated to be $1,252,734 at June 30, 1985 after this action.

Mayor McDevitt said members of Council were furnished copies of the ordinance and it would not be read in its entirety unless there was a specific request to do so.

Councilman Price moved for the adoption of Ordinance No. 1507. This motion was seconded by Councilman Bissette.

On a roll call vote of 7-0, Ordinance No. 1507 passed on first and final reading.

Mayor McDevitt asked that the record show that Councilman Boland voted "aye" due to being absent without being excused.

Complete text of Ordinance No. 1507 will be found in Ordinance Book No. 10 at page 258.

RESOLUTION NO. 85-~~36~~ 45ch - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH WOOD AND CORT TO PREPARE SAID PLANS FOR CITY HALL AND SOUTH CHARLOTTE STREET FACILITIES

8. Consideration was given to a resolution authorizing the City Manager to enter into an agreement with Wood and Cort to prepare said plans for repairs and upgrading City Hall and South Charlotte Street facilities.

Mayor McDevitt said the City has a proposal for the development of plans and cost estimates for needed repairs to upgrading City Hall, and the development of operations facilities on South Charlotte Street. The firm of Wood and Cort, P.A. has submitted a proposal to prepare said plans for a cost not to exceed $20,000.00.

Mayor McDevitt said members of Council were furnished copies of the resolution and it would not be read in its entirety unless there was a specific request to do so.

Upon motion of Councilman Myers, seconded by Councilman Price, Resolution No. 85-~~36~~ 45ch was unanimously adopted.

PRESENTATION OF LETTER FROM HISTORIC RESOURCES COMMISSION RELATIVE TO DESIGNATING THE BRICK SECTION OF NORTH MARKET STREET AND THE STONE PART OF LANGREEN ALLEY AS LOCAL HISTORIC PROPERTY

Mayor McDevitt announced that he had received a letter from Jim Coman, Buncombe County Staff to the Historic Resources Commission, requesting that City Council designate the brick section of North Market Street and the stone part of Langreen Alley as local historic property.

Mayor McDevitt requested that the City Manager look into the procedure for designating the local historic property. He presented members of Council with a copy of the letter which also expressed concerns over the future of two City properties, both former fire stations, including the old West Asheville Fire Station on Haywood Road and the old North Asheville Fire Station on Merrimon Avenue.

PRESENTATION OF INVITATION TO "BECAUSE WE CARE" DAY AT THE ASHEVILLE VETERANS ADMINISTRATION HOSPITAL

Mayor McDevitt presented members of Council with a copy of a letter from Richard E. Soesbee, inviting members of Council to attend a program being held by the Amvets (American Veterans) and to greet hospitalized veterans on April 3, 1985 from 1:00 p.m. to 4:00 p.m.

PRESENTATION OF LETTER RELATIVE TO THE RESIGNATION OF CAROLYN THOMPSON AS A MEMBER OF THE ASHEVILLE AREA CIVIC CENTER COMMISSION

Mayor McDevitt presented members of Council with a copy of a letter from Carolyn R. Thompson, resigning as a member of the Asheville Area Civic Center Commission.

PRESENTATION OF LETTER FROM QUALITY FORWARD - PLANNING SESSION TO SUPPORT NORTH CAROLINA DEPARTMENT OF TRANSPORTATION CLEANUP CAMPAIGN

Mayor McDevitt presented members of Council with a letter received from Quality Forward relative to attending a planning session to support the North Carolina Department of Transportation's Cleanup Campaign of highways.

Councilman Frank agreed to attend the planning session on April 2, 1985.

INVITATION TO LUNCHEON FOR YOUTH IN GOVERNMENT DAY

Mayor McDevitt noted that members of Council have been invited to a luncheon for Youth In Government Day at the Asheville Civic Center Banquet Room at 12:00 Noon on Wednesday, March 27, 1985.

ADJOURNMENT

Upon motion of Vice-Mayor Bratton, seconded by Councilman Bissette, the meeting adjourned at 8:10 p.m.

Tony McDevitt
MAYOR

Marian F. Metcalf
CITY CLERK

47a

RESOLUTION NO. 85-~~36~~ - RESOLUTION ACCEPTING THE HIGH BID AND AUTHORIZING THE SALE OF THE CITY OF ASHEVILLE PROPERTY, KNOWN AS ROBERTS STREET PROPERTY

11. Consideration was given to a resolution accepting the high bid and authorizing the sale of the City of Asheville property, known as Roberts Street Property.

Mayor McDevitt said the City of Asheville, by Resolution No. 85-18 adopted on March 5, 1985, authorized the City Clerk to advertise the sale of property on Roberts Street. Supply Specialities, Inc. submitted the last and highest bid in the sum of $2,600.00, and the time for filing an upset bid has now expired.

Mayor McDevitt said members of Council were furnished copies of the resolution and it would not be read in its entirety unless there was a specific request to do so.

Upon motion of Councilman Price, seconded by Councilman Bissette, Resolution No. 85-~~36~~ was unanimously adopted.

47a 47a

Complete text of Resolution No. 85-~~36~~ will be found in Resolution Book No. 15 at page ~~168~~. 179 mom

CLAIMS - SONYA SISSON (WATER)

The Associate City Manager presented a claim received from Sonya Sisson.

Mayor McDevitt referred the claim to the Corporation Counsel for investigation and recommendation.

COMMITTEE OF AD HOC COUNCIL CABLEVISION COMMISSION

Mayor McDevitt said the Ad Hoc Council Cablevision Commission would consist of Councilman Bissette, Councilman Myers, and Attorney Gary Rowe, who would replace Harold Bennett who was appointed a member of the Commission at the meeting of March 19, 1985, but withdrew for health reasons.

Councilman Myers moved that Gary Rowe be appointed a member of the Ad Hoc Council Cablevision Commission. This motion was seconded by Councilman Price and carried unanimously.

48a

RESOLUTION NO. 85-~~37~~ - RESOLUTION APPOINTING MEMBER TO THE ASHEVILLE TRANSIT AUTHORITY (TOM TOMLIN)

Consideration was given to a resolution appointing Mr. Tom Tomlin as a member to the Asheville Transit Authority for a four (4) year term, term expiring December 31, 1988.

Upon motion of Councilman Frank, seconded by Councilman Bissette, Resolution No. 85-~~37~~ was unanimously adopted.

48a 48a

Complete text of Resolution No. 85-~~37~~ will be found in Resolution Book No. 15 at page ~~169~~. 180 mom

Mayor McDevitt opened the public hearing at 4 10 p.m.

The City Clerk presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Bob McDonald, Traffic Engineer, said the road was closed by a barricade on November 20, 1984, by order of City Council after receiving complaints from the residents. He said, in January Council, received a petition signed by approximately 203 individuals requesting that the intersection be reopened. He said traffic counts had been taken on Kenilworth Drive and Pickwick Road which indicated approximately 120 cars per day use the intersection. He said, prior to the closing, the count on Kenilworth Drive was 219 per day. He said, in his opinion, if the road was reopened the traffic count would be up to approximately 350 cars per day.

Mr. McDonald said he had met with the residents of Kenilworth Drive on Monday night, April 1, to discuss the reopening of Kenilworth Drive and Pickwick Road. He said at the conclusion of the meeting, the residents agreed to recommend reopening Kenilworth Drive at its intersection with Pickwick Road provided that a stop sign be installed at the top of the hill and appropriate traffic measures and signage be installed to control the traffic.

Augusta Young, President of the Kenilworth Residents Association, said it would be their recommendation to reopen the intersection as recommended by the Traffic Engineer. Kathryn Johnson of Devonshire Place, the original petitioner to reopen the road spoke in favor of the intersection being reopened.

The following individuals spoke in support of the intersection being reopened:

Mrs. Kennedy - Pickwick Road
Helen Hudson - Pickwick Road
Mrs. Spivey - Pickwick Road

Councilman Price noted that Mrs. Joyce Boone of 13-17 Pickwick Road also wanted the barricade to be removed.

Mayor McDevitt closed the public hearing at 4:25 p.m.

Mayor McDevitt said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Vice-Mayor Bratton, seconded by Councilman Boland, Resolution No. 85-50 was unanimously adopted.

Complete text of Resolution No. 85-50 will be found in Resolution Book No. 15 at page ~~171~~.

Councilman Price moved that the Traffic Engineer be authorized to install a stop sign at the top of the hill at Kenilworth Drive and Pickwick Road and to install safety traffic measures at the intersection. She further requested that the Traffic Engineer continue to evaluate the intersection with the road reopened. This motion was seconded by Vice-Mayor Bratton and carried unanimously.

Tuesday - April 2, 1985 - 4 00 p.m.

Regular Meeting

Present: Mayor Larry McDevitt, Presiding; Vice-Mayor Wilhelmina Bratton; Councilmen Mary Lloyd Frank, Norma T. Price, Gordon Myers, Walter R. Boland, and Louis Bissette; Corporation Counsel William F. Slawter; City Manager Neal Creighton; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: None

INVOCATION

The invocation was given by Councilman Norma Price.

APPROVAL OF THE MINUTES - MARCH 26, 1985 MEETING

1. Approval of the minutes of the March 26, 1985 meeting.

Mayor McDevitt announced the approval of the minutes of the March 26, 1985 meeting as submitted.

RESOLUTION NO. 85-49 - RESOLUTION OF APPRECIATION AND COMMENDATION TO J. PATRICK "PAT" PRICE

2. Consideration was given to a resolution of appreciation and commendation to J. Patrick Price.

Mayor McDevitt read the resolution which stated that J. Patrick "Pat" Price was appointed to the Asheville City Board of Education on April 10, 1975 and appointed Chairman of the Board in April, 1983. Mr. Price submitted his resignation as a member of the Board on March 25, 1985.

Upon motion of Vice-Mayor Bratton, seconded by Councilman Frank, Resolution No. 85-49 was unanimously adopted.

Complete text of Resolution No. 85-49 will be found in Resolution Book No. 15 at page ~~170~~. 181 mom

PUBLIC HEARING - REOPENING KENILWORTH DRIVE AT ITS INTERSECTION WITH PICKWICK ROAD

RESOLUTION NO. 85-50 - RESOLUTION REOPENING KENILWORTH DRIVE AT ITS INTERSECTION WITH PICKWICK ROAD

3. A public hearing was held relative to adoption of a resolution reopening Kenilworth Drive at its intersection with Pickwick Road.

Mayor McDevitt said a petition had been received, signed by numerous residents of the Kenilworth area and others, requesting that the City Council reopen Kenilworth Drive for the benefit of the motoring public. This resolution, if adopted, will rescind the City Council's action of February 21, 1984 to close Kenilworth Drive and will authorize the reopening of said street at its intersection with Pickwick Road. This public hearing will afford the citizens of the area an opportunity to voice their opinions on the reopening of the road.

ORDINANCE NO. 1505 - AN ORDINANCE AMENDING ARTICLE 8 (BOARD OF ADJUSTMENT), SECTION 30-8-2 OF ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED, TO PROVIDE STAGGERED TERMS ON THE BOARD OF ADJUSTMENT

5. Consideration was given to the second reading of Ordinance No. 1505, an ordinance amending Article 8 (Board of Adjustment), Section 30-8-2 of Ordinance No. 322, known as "An ordinance providing for the zoning of the City of Asheville," as amended, to provide staggered terms on the Board of Adjustment.

Mayor McDevitt said the board shall consist of four (4) regular members appointed by the City Council for a term of three (3) years and one regular member who is a resident of the extraterritorial area appointed by the County Commissioners for a term of three (3) years. There shall also be appointed seven (7) alternate members five (5) who are city residents appointed by City Council, and two (2) appointed by the County Commissioners who are residents of the extraterritorial area. The alternate members shall serve only in the absence of regular members. Provided, however that the regular members and alternate members to be appointed by the City Council in 1985 two (2) regular members and two (2) alternate members shall be appointed for three-year terms; one (1) regular member and two (2) alternate members shall be appointed for two-year terms; and one (1) regular member and one (1) alternate member shall be appointed for one-year terms. Upon the expiration of the terms appointed in 1985, any subsequent appointments by the City Council shall be for a term of three (3) years. This ordinance passed on first reading on March 26, 1985.

Mayor McDevitt said the ordinance was previously read on first reading and would not be reread in its entirety unless there was a specific request to do so.

On a roll call vote of 7-0, Ordinance No. 1505 passed on second reading.

Councilman Price moved to suspend the rules and proceed to the third reading of Ordinance No. 1505. This motion was seconded by Councilman Boland and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1505 passed on third and final reading.

Complete text of Ordinance No. 1505 will be found in Ordinance Book No. 10 at page 256.

ORDINANCE NO. 1506 - AN ORDINANCE AMENDING SECTION 1-2 OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE

6. Consideration was given to the second reading of Ordinance No. 1506, an ordinance amending Section 1-2 of the Code of Ordinances of the City of Asheville.

Mayor McDevitt said the definition of "council" contined in Section 1-2 of the Code of Ordinances of the City of Asheville be amended to read as follows with the underlined portion representing change: "The words "the council" or "city council" shall mean the city council of the City of Asheville, North Carolina, including six council members and the mayor." This ordinance passed on first reading on March 26, 1985.

On a roll call vote of 7-0, Ordinance No. 1506 passed on second reading.

Bob McDonald said the stop sign and markings would be installed on Tuesday, April 9, and the Police Department would be requested to advise motorist in the area of the stop sign. He said he would also notify all emergency services that the road is reopened.

ORDINANCE NO. 1504 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED - PROPERTY LOCATED ON PERIMETER OF ASHEVILLE MALL (R. L. COLEMAN, JR. PETITION)

4. Consideration was given to the second reading of Ordinance No. 1504, an ordinance amending Ordinance No. 322, known as "An ordinance providing for the zoning of the City of Asheville," as amended - property located on perimeter of Asheville Mall (R. L. Coleman Company, Jr. - petition).

Mayor McDevitt said the Asheville Planning and Zoning Commission reviewed the request at its regular meeting on February 6, 1985, and delayed action requesting the R. L. Coleman Company and the Kenilworth Forest Association to meet to attempt to reach some compromise on several issues which were producing an impass and report to the Commission on February 27, 1985. At the February 27, 1985 meeting the Commission voted to approve a portion of the rezoning request. In addition, the Commission voted to provide additional R-3 buffers to assist in protecting the White Pine Drive areas. This ordinance passed on first reading on March 26, 1985.

Harold Payne, Co-Chairman of the Kenilworth Forest Association, said the residents have put their requests in order and distributed them to the Board of Directors. He said the requests will be presented to Attorney Bob Long to draw the appropriate agreement by and between the R. L. Coleman Company and the Kenilworth Forest Association. He requested that Council continue the second reading of the ordinance for two weeks in order to get the formal agreement completed.

Jack Stevens, Attorney for the R. L. Coleman Company, requested that Council proceed on the second reading of the ordinance and schedule the third reading of the ordinance for two weeks from today, April 16, 1985.

Upon inquiry of Jerry Bradley, Mayor McDevitt said Council had researched the minutes relative to the approval of the original mall, and found no indication that an access from Bracketown Road would be prohibited. He said the residents of the area should feel free to research the minutes of the City Council meeting during that particular time period.

Councilman Boland requested that the R. L. Coleman Company screen the storm drain pipe on the Asheville Mall property in an attempt to alleviate problems of flooding on Mrs. Willard's property.

Danie Johnson, Architect for the R. L. Coleman Company, said Ben Lapsley had investigated the problem of flooding on Mrs. Willard's property. He said his preliminary report indicated that the problem of flooding in that area is a City responsibility rather than the Asheville Mall problem. However, the developer is looking into this matter to ascertain the responsibility.

On a roll call vote of 7-0, Ordinance No. 1504 passed on second reading.

Councilman Price moved to table the third reading of Ordinance No. 1504 for two weeks, April 16, 1985. This motion was seconded by Councilman Bissette and carried unanimously.

Mayor McDevitt said copies of the resolution were previously distributed to members of Council and the resolution would not be read in its entirety.

Upon motion of Councilman Price, seconded by Councilman Frank, Resolution No. 85-51 was unanimously adopted.

Complete text of Resolution No. 85-51 will be found in Resolution Book No. 15 at page 172.

RESOLUTION NO. 85-52 - RESOLUTION SUPPORTING THE GENERAL REVENUE SHARING PROGRAM

9. Consideration was given to a resolution supporting the General Revenue Sharing Program.

Mayor McDevitt said the State and Local Fiscal Assistance Act of 1972, otherwise known as General Revenue Sharing, was created to meet the growing revenue needs of state and local governments. General Revenue Sharing represents a return to local communities of a portion of taxes paid by local citizens. The present level of General Revenue Sharing payment to the City of Asheville is equal to 7 (seven) cents on the tax rate. This program is presently scheduled to expire in September, 1985, unless reauthorized by Congress. The failure of Congress to reenact General Revenue Sharing at an early date will result in administration confusion and adversely affect the budget planning process of thousands of state and local governments. The National League of Cities and the North Carolina League of Municipalities strongly support the reenactment of General Revenue Sharing and have asked local governments to voice their support of the continuance of this program. This resolution will endorse the reenactment of General Revenue Sharing and will encourage the United States Congress to act immediately to continue this vital program.

Mayor McDevitt said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Councilman Price said all cities have been supportive of General Revenue Sharing. She said these funds have helped the City of Asheville not to have to increase property tax. She said the funds are actually paid by the citizens through their Federal Income Tax. She said this is the most important vital program the federal government has, in that it gives the local governments flexibility in appropriating the funds.

Councilman Boland said he strongly supports the continuation of General Revenue Sharing. He said the funding is also supported by the National League of Cities. He said, since its inception, the City of Asheville has received over 19 million dollars in General Revenue Sharing funds. He said the City has used these funds for capital and equipment needs. He said the original intent of the implementation of the General Revenue Sharing Fund was to cut centralization at the federal levels giving local governments authority to use the funds at their discretion. He said he felt this is one of the most effective programs of the federal government.

Councilman Frank said she felt this was the best means of recovering our federal income tax money.

SALE OF DISPOSAL PARCELS 5, 43, 154, AND 174 IN THE EAST END/VALLEY STREET COMMUNITY IMPROVEMENT AREA

7. Consideration was given to a motion approving the sale of Disposal Parcels 5, 43, 154, and 174 in the East End/Valley Street Community Improvement Area.

Mayor McDevitt said the Housing Authority has tentatively accepted the following bids for Disposal Parcels in the East End/Valley Street Community Improvement Area. He summarized the bids and proposed use of the parcels as follows:

Parcel	Reuse	Price	Bid	Redeveloper
5	Residential	$2 950.00	$3 200.00	Ronald & Constance Jefferson
43	Residential	6,600.00	6,700.00	Burdine Smith
154	Residential	525.00	857.00	Bennie Mae Fuller
174	Residential	2,400.00	2,650.00	St. James A.M.E. Church

Lot 5 located at Martin Luther King Drive at Edgehill is a residential dollar-a-lot sale for single-family structures under the Incentive Housing Program.

Lot 43 located at Martin Luther King Drive at Curve Street is a residential dollar-a-lot sale for single-family structures under the Incentive Housing Program.

Lot 154 located at Hildebran Street is a residential lot sale to an adjacent property owner to provide additional yard space. Appropriate landscaping will be done but no construction is planned.

Lot 174, is a residential lot sale located across the street from St. James Church on Hildebran Street. The proposed usage of this lot is to provide additional off-street parking.

Councilman Boland moved to approve the sale of Disposal Parcels 5, 43, 154, and 174 as recommended by the Housing Authority. This motion was seconded by Councilman Bissette and carried unanimously.

RESOLUTION NO. 85-51 - RESOLUTION APPOINTING PRICE WATERHOUSE AS AUDITORS FOR FISCAL YEAR ENDING JUNE 30, 1985

8. Consideration was given to a resolution appointing Price Waterhouse as auditors for fiscal year ending June 30, 1985.

Mayor McDevitt said the City of Asheville appointed Price Waterhouse as its auditors for the fiscal year ending June 30, 1984, on the basis of a proposal of services for a three-year period commencing with the fiscal year ended June 30, 1984. Price Waterhouse has satisfactorily performed their duties for the fiscal year ended June 30, 1984. The annual audit by independent auditors is required by N. C. State Statutes. The funds for these services have been appropriated and the proposed fee will not exceed $28 000.00.

Bob Wurst, Director of Audit & Budget, said Price Waterhouse completed the 1984 audit on a very timely basis, and recommended reappointment of Price Waterhouse.

Mayor McDevitt said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Boland, seconded by Councilman Price, Resolution No. 85-53 was unanimously adopted.

Complete text of Resolution No. 85-53 will be found in Resolution Book No. 15 at page 174.

RESOLUTION NO. 85-54 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE ON BEHALF OF THE CITY OF ASHEVILLE A CONTRACT AND ANY CHANGE ORDERS WITHIN THE BUDGETED AMOUNT WITH CANNON ROOFING COMPANY, INC. FOR ROOF REPAIRS TO THE ASHEVILLE TRANSIT FACILITY

11. Consideration was given to a resolution authorizing the City Manager to execute on behalf of the City of Asheville a contract and any change orders within the budgeted amount with Cannon Roofing Company, Inc. for roof repairs to the Asheville Transit facility.

Mayor McDevitt said bids were opened February 26, 1985, for roof repairs to the Asheville Transit Facility. The City Engineering Division recommends award of the bid to the lowest bidder, Cannon Roofing Company, Inc. The contract sum of $47,000.00 and administrative costs are within the amount allocated for this project.

Mayor McDevitt said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Bissette, seconded by Councilman Frank, Resolution No. 85-54 was unanimously adopted.

Complete text of Resolution No. 85-54 will be found in Resolution Book No. 15 at page 175. 186 mom

RESOLUTION NO. 85-55 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE ON BEHALF OF THE CITY OF ASHEVILLE A CONTRACT AND ANY CHANGE ORDERS WITHIN THE BUDGETED AMOUNT WITH UNITED ROOFING AND SHEET METAL COMPANY, INC. FOR ROOF REPAIRS TO THE EAST ASHEVILLE FIRE STATION, LIBRARY, AND COMMUNITY BUILDING

12. Consideration was given to a resolution authorizing the City Manager to execute on behalf of the City of Asheville a contract and any change orders within the budgeted amount with United Roofing and Sheet Metal Company, Inc.

Mayor McDevitt said bids were opened for roof repairs to the East Asheville Fire Station, Library, and Community Center Building on February 26, 1985. The City Engineering Division recommends award of the contract to the lowest bidder, United Roofing and Sheet Metal Company, Inc. The contract sum of $74,375.00 and administrative cost are within the amount allocated for this project.

Mayor McDevitt said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Frank seconded by Councilman Bissette, Resolution No. 85-55 was unanimously adopted.

Councilman Bissette said he had reservations about the resolution's wording which supported continuation of the program, "as currently structured and funded." He said if the federal government is cutting other programs, then probably Revenue Sharing funding should be reduced as the others are to get the federal deficit under control. He said the City of Asheville has become dependent on these funds, and he did not feel they should be abruptly withdrawn. He requested that Council delete the words "as currently structured and funded" from the resolution.

Vice-Mayor Bratton said the Revenue Sharing Program is valuable, but that she is afraid support for the Revenue Sharing Program may result in discontinuation of other programs such as the ARC (Appalachian Regional Commission). She said she felt revenue sharing is in the best interest of Asheville, but she also had concerns for social services such as day care centers that the ARC provides. She said her vote would not be a vote against Revenue Sharing but a vote speaking out for social programs such as the ARC that may be cut out.

Councilman Price moved for the adoption of Resolution No. 85-52 with the deletion of the last five words "as currently structured and funded." This motion was seconded by Councilman Boland.

Mayor McDevitt said he would oppose the federal administration's proposal if it were the only program slated for termination, but if this is in part an overall comprehensive plan to reduce the federal deficit then he would be willing to do away with it.

Councilman Myers said in working with the City budget over the past three years, he did not feel that the City budget could take a cut such as Federal Revenue Sharing.

On a voice vote of 5-2, Resolution No. 85-52 passed with Mayor McDevitt and Vice-Mayor Bratton voting "no."

Ralph Bishop spoke in opposition of the resolution.

Complete text of Resolution No. 85-52 will be found in Resolution Book No. 15 at page ~~179~~ 184.

RESOLUTION NO. 85-53 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE ON BEHALF OF THE CITY OF ASHEVILLE A CONTRACT AND ANY CHANGE ORDERS WITHIN THE BUDGETED AMOUNT WITH COOPER ENTERPRISES, INC. FOR IMPROVEMENTS TO THE VENTILATION SYSTEM IN THE DEPARTMENT OF PUBLIC WORKS BUILDING ON SOUTH CHARLOTTE STREET

10. Consideration was given to a resolution authorizing the City Manager to execute on behalf of the City of Asheville a contract and any change orders within the budgeted amount with Cooper Enterprises, Inc. for improvements to the ventilation system in the Department of Public Works Building on South Charlotte Street.

Mayor McDevitt said bids were opened for improvements to the ventilation system in the Department of Public Works Building on South Charlotte Street on March 14, 1985. The City architect recommends award of the contract to the lowest bidder, Cooper Enterprises, Inc. The contract sum of $22,982.00 and administrative costs are within the amount budgeted for this project.

D. Motion scheduling a public hearing relative to a site plan for Phase I of the proposed Haywood Plaza Hotel to be located at the corner of Haywwod Street and Battery Park Avenue for April 23, 1985.

The Asheville Planning and Zoning Commission at a meeting held March 13, 1985, reviewed the site plan of Phase I of the proposed Haywood Plaza Hotel to be located at the corner of Haywood Street and Battery Park Avenue. The plan was prepared by John Rogers, Architect for Haywood Street Redevelopment Corporation, Developer, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of the site plan to City Council.

E. Motion scheduling a public hearing authorizing the filing of an application with the Department of Tranportation, United States of America for a grant under the Urban Mass Transportation Act of 1964, as amended, for May 7, 1985.

This application is for additional operating assistance funds under Section 5 of the UMTA Act. Expenditures for this grant will be 50-50 match between federal and city.

Federal	$116,772
Local (City)	116,772
Total	$233 544

F. Motion scheduling a public hearing authorizing the filing of an application with the Department of Transportation United States of America for a grant under the Urban Mass Transportation Act of 1964, as amended for May 7, 1985.

This application is for planning capital, and operating assistance funds under Section 9 fo the UMTA Act. Expenditures for this grant will be a match between federal state, and city.

Federal	$1,051,890
State	83 200
Local (City)	469,490
Total	$1 604 580

G. Resolution No. 85-56 - resolution appointing member to the Asheville Buncombe Crime Stoppers Committee.

This resolution will appoint Ann Huntington as a member of the Asheville-Buncombe Crime Stoppers Committee.

Complete text of Resolution No. 85-56 will be found in Resolution Book No. 15 at page 177.

CLAIMS - MARILYN McKENNA (WATER) - RESSIE McCAULEY (STREETS)

The City Manager presented claims received from Marilyn McKenna and Ressie McCauley.

Mayor McDevitt referred the claims to the Corporation Counsel for investigation and recommendation.

Complete text of Resolution No. 85-55 will be found in Resolution Book No. 15 at page ~~156~~ 189 mon

APPROVAL OF THE CONSENT AGENDA

13. Consideration was given to a motion approving the consent agenda.

Mayor McDevitt said the following items are of a routine nature and they have been previously reviewed by the members of the City Council. Therefore, by unanimous vote to approve these items, the City Council may, pursuant to the procedures established in Ordinance No. 1008, adopt all of the items with one motion without the full reading and/or separate motion adopting each individual item. Upon the request of a citizen, a member of the City Council, and/or a member of the City staff, any single item scheduled for approval on the consent agenda may be considered separately.

A. Motion scheduling a public hearing relative to rezoning property located on Arco Road for April 23. 1985.

The Asheville Planning and Zoning Commission at a meeting held March 13, 1985, considered the request of Attorney Marvin Pope for Mr. Elmer Frink that Ward 8, Sheet 13, portion of Lot 192, be rezoned from R-2 Residential District to CH Commercial Highway District. This property is located on Arco Road. After review and discussion, the Commission voted to recommend to City Council that Ward 8, Sheet 13, a portion of Lot 192, be rezoned from R-2 Residential District to CH Commercial Highway District.

B. Motion to schedule a public hearing for rezoning property located at 800 Fairview Road (River Ridge Market Place) for April 23, 1985.

The Asheville Planning and Zoning Commission at a meeting held March 13, 1985, considered the request of Bob Hughes and Associates that Ward 7, Sheet 51, Lot 1. be rezoned from LI Light Industrial District to CH Commercial Highway District. The property is located at 800 Fairview Road (River Ridge Market Place). After review and discussion. the Commission voted to recommend to City Council that Ward 7, Sheet 51, Lot 1, be rezoned from LI Light Industrial District to CH Commercial Highway District.

C. Motion scheduling a public hearing relative to rezoning property known as Hemphill Knoll at Gashes Creek and I-40 for April 23, 1985.

The Asheville Planning and Zoning Commission at a meeting held March 13, 1985, considered the request of Mr. George Beverly, Agent that Ward 13, Sheet 33, Lot 68, and Ward 13, Sheet 34, Lot 11, be rezoned from R-2 Residential District to OI Office Institutional District. The property is known as Hemphill Knoll at Gashes Creek and I-40. After review and discussion, the Commission voted to recommend to City Council that a portion of Lot 68, Sheet 33 Ward 13, and a portion of Lot 11, Sheet 34, Ward 13, be rezoned from R-2 Residential District to OI Office Institutional District. This would leave a 100 foot strip of R-2 buffer on the southern border abutting the Blue Ridge Parkway and Lot 78, Sheet 33 Ward 13, and on the northwestern margin abutting Lots 37½ and 8¼, Sheet 33, Ward 13.

Tuesday - April 9, 1985 - 4:00 p.m.

Regular Meeting

Present: Mayor Larry McDevitt, Presiding; Vice-Mayor Wilhelmina Bratton; Councilmen Mary Lloyd Frank, Norma T. Price, Gordon Myers, and Walter R. Boland; Corporation Counsel William F. Slawter; City Manager Neal Creighton; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Councilman Louis Bissette

INVOCATION

The invocation was given by Mayor Larry McDevitt.

APPROVAL OF THE MINUTES - APRIL 2, 1985 MEETING

1. Approval of the minutes of the April 2, 1985 meeting.

Mayor McDevitt announced the approval of the minutes of the April 2, 1985 meeting as submitted.

PROCLAMATION - "BUILDING SAFETY WEEK" - APRIL 14-20, 1985

2. Mayor McDevitt read a proclamation proclaiming the week of April 14-20 as "Building Safety Week" in the City of Asheville.

Mayor McDevitt presented the proclamation to Lem Moore, Director of Inspections.

ORDINANCE NO. 1506 - AN ORDINANCE AMENDING SECTION 1-2 OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE

3. Consideration was given to the third reading of Ordinance No. 1506, an ordinance amending Section 1-2 of the Code of Ordinances of the City of Asheville.

Mayor McDevitt said the definition of "council" contained in Section 1-2 of the Code of Ordinances of the City of Asheville be amended to read as follows with the underlined portion representing change: "The words the council or city council shall mean the City Council of the City of Asheville, North Carolina, including six council members and the mayor". This ordinance passed on first reading on March 26, 1985 and on second reading April 2, 1985.

Mayor McDevitt said this ordinance was previously read on first and second reading and would not be reread in its entirety unless there was a specific request to do so.

On a roll call vote of 6-0, Ordinance No. 1506 passed on third and final reading.

RALPH BISHOP - COMMENTS RELATIVE TO APPOINTMENTS TO THE ASHEVILLE SCHOOL BOARD

Ralph Bishop spoke against the selection of the members of the Asheville School Board which were made by Council on March 26, 1985.

BEAVERVIEW/HILLCREST 4-H CLUB

Members of the Beaverview/Hillcrest 4-H Club requested a picture of the City Council for their government project.

ADJOURNMENT

Upon motion of Councilman Price, seconded by Vice-Mayor Bratton, the meeting adjourned 6:00 p.m.

MAYOR

CITY CLERK

Upon motion of Councilman Boland, seconded by Councilman Frank, Resolution No. 85-57 was unanimously adopted.

Complete text of Resolution No. 85-57 will be found in Resolution Book No. 15 at page 178.

Ralph Bishop spoke in opposition to the resolution stating that the City of Asheville should quit getting funds from the Federal Government which build up the federal deficit.

RESOLUTION NO. 85-58 - RESOLUTION AUTHORIZING THE FILING OF AN APPLICATION WITH THE DEPARTMENT OF TRANSPORTATION, UNITED STATES OF AMERICA, FOR A GRANT UNDER THE URBAN MASS TRANSPORTATION ACT OF 1964, AS AMENDED

6. Consideration was given to a resolution authorizing the filing of an application with the Department of Transportation, United States of America, for a grant under the Urban Mass Transportation Act of 1964, as amended.

Mayor McDevitt said this application for funding under Section 8 of the UMTA of 1964 as amended will aid in the financing of planning projects for transportation operations. Funds will come from Federal, State and Local Government. Expenditures for this grant will be a match between Federal, State and City.

Federal (UMTA)	20,000
State (NCDOT)	2,500
Local (City)	2,500
TOTAL	25,000

Mayor McDevitt said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Frank, seconded by Councilman Price, Resolution No. 85-58 was unanimously adopted.

Complete text of Resolution No. 85-58 will be found in Resolution Book No. 15 at page 179.

ORDINANCE NO. 1509 - BUDGET ORDINANCE AMENDMENT TO REIMBURSE THE COMMUNITY DEVELOPMENT FUND

7. Consideration was given to a budget ordinance amendment to reimburse the Community Development Fund.

Mayor McDevitt said this action appropriates General Fund - Contingency funds in the amount of $8,584 to reimburse the Community Development Fund for costs disallowed as of June 30, 1984. The City exceeded the 20% limitation for administration and planning costs for the program year.

Mayor McDevitt said members of Council were furnished copies of the ordinance and it would not be read in its entirety.

Complete text of Ordinance No. 1506 will be found in Ordinance Book No. 10 at page 257.

RESOLUTION NO. 85-56 - RESOLUTION OF INTENT TO CLOSE A PORTION OF OLD MOUNTAIN STREET AND OLD PINE STREET AND CALLING A PUBLIC HEARING ON THE QUESTION FOR MAY 14, 1985

4. Consideration was given to a resolution of intent to close a portion of Old Mountain Street and Old Pine Street and scheduling a public hearing for May 14, 1985.

Mayor McDevitt said a petition has been filed by the Housing Authority of the City of Asheville, asking that a portion of Old Mountain Street and Old Pine Street be permanently closed to public use. These streets are under the authority and control of the City and are not under the authority of the N. C. Department of Transportation.

Mayor McDevitt said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Price, seconded by Councilman Boland, Resolution No. 85-56 was unanimously adopted.

Complete text of Resolution No. 85-56 will be found in Resolution Book No. 15 at page ~~177.~~ 188 Mon

RESOLUTION NO. 85-57 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE ON BEHALF OF THE CITY OF ASHEVILLE A FEDERAL AVIATION GRANT AGREEMENT, PROJECT NO. 3-37-0005-04

5. Consideration was given to a resolution authorizing the Mayor to execute on behalf of the City of Asheville a Federal Aviation Grant Agreement, Project No. 3-37-0005-04.

Mayor McDevitt said the Federal Aviation Administration has offered a grant agreement, dated March 27, 1985, to the Asheville Regional Airport Authority in the amount of $44,325.00. The City of Asheville and the County of Buncombe are sponsors of the agreement. The FAA requires each sponsor to execute the grant agreement. This agreement provides for a Terminal System Analysis Program.

Mayor McDevitt said members of Council were furnished copies of the resolution and it would not be read in its entirety.

The Associate City Manager said the grant would be funded by the Federal providing 90%, State providing 5%, and the County providing 5% of the total grant funds.

Mayor McDevitt said members of Council were furnished copies of the resolution and it would not be read in its entirety.

LAWSUITS - ASHEVILLE HOUSING AUTHORITY/CONDEMNATION OF DEVERE LENTZ, JR. PROPERTY (PACK PLAZA) - ASHEVILLE HOUSING AUTHORITY/CONDEMNATION OF SUSAN LITTLEJOHN - CARSON PROPERTY (PACK PLAZA)

The City Manager said the City was served with summonses in connection with lawsuits involving the Asheville Housing Authority and the condemnation of Devere Lentz, Jr. property (Pack Plaza) and condemnation of Susan Littlejohn - Carson Property (Pack Plaza).

Mayor McDevitt referred the summonses to the Corporation Counsel for investigation and recommendation.

PROCLAMATION - APRIL 21-27, 1985 - "CLEAN UP LITTER WEEK"

Mayor McDevitt presented a proclamation proclaiming the week of April 21-27 as "Clean Up Litter Week".

RALPH BISHOP - COMMENTS RELATIVE TO FORMER POLICE CHIEF J. C. HALL RECEIVING POLICE PENSION FUNDS

Upon inquiry of Ralph Bishop, Corporation Counsel Slawter said an individual receiving disability police pension benefits can perform other duties, in another state, and still draw disability police pension funds.

Upon further inquiry of Mr. Bishop, Corporation Counsel Slawter said all records relative to former Police Chief J. C. Hall and his disability police pension funds were given to Mr. Bishop.

REQUEST OF CITIZENS (H. M. HEYWOOD, JR. - FOR LOCAL CITIZENS COMMITTEE) - STATE RIDGE LAW REQUIREMENTS

Mr. Harvey Heywood, Jr., highlighted the following letter presented to members of Council:

April 6, 1985

Re: Sunset Point Condominiums

Asheville City Council
Asheville, N. C. 28807

Dear City Council Member:

A recent meeting regarding the above matter was held on April 2, involving representatives from a number of homeowner associations within the City and interested citizens. Sections of the City represented included North Asheville, Grove Park, Sunset Mountain, Redwood Forest, Haw Creek, and West Asheville. The meeting was called on short notice and all areas known to be interested could not be contacted.

A show of hands indicated 23 out of 24 present to be against construction of the Sunset Point Condominiums, for a number of very valid reasons. A suggested petition was presented and approved as to intent even though the suggested remedy may not be appropriate. This is being circulated. An ad hoc committee of 6 was formed to investigate and deve op effective strategy. The Committee met at noon on Friday April 5. Several

Councilman Myers moved for the adoption of Ordinance No. 1509. This motion was seconded by Councilman Frank.

On a roll call vote of 6-0, Ordinance No. 1509 passed on first and final reading.

Complete text of Ordinance No. 1509 will be found in Ordinance Book No. 10 at page 260.

BIDS - HERBICIDE FOR PUBLIC WORKS DEPARTMENT, STREET DIVISION

9. Consideration was given to bids received for herbicide for Public Works Department, Street Division.

Mayor McDevitt said seven (7) sealed bids were received for a term purchase contract to furnish an estimated 440 gallons of herbicide for the Street Division's right-of-way maintenance program. Recommendation is to award this contract to the low bidder, Helena Chemical Company, Enfield, N. C. in the amount of $34,474.00. Purchases will be made on an as needed basis at the unit price of $78.35 per gallon. Sufficient funds are available in the Street Division operating budget Account Code 10-427-038.

Clark Brown, Director of Public Works, said the herbicide had been approved by the EPA and would be sprayed on vegetation along paved areas in the City of Asheville.

Councilman Myers moved to approve the award of this contract to the low bidder, Helena Chemical Company, in the amount of $34,474. This motion was seconded by Councilman Frank and carried unanimously.

Bid Summary

Bidder	Bid
Asheville FCX Asheville, N. C.	34,760.00
Forshaw Chemicals, Inc. Charlotte, N. C.	34,729.20
Helena Chemical Company Enfield, N. C.	34,474.00
Pennington Seed, Inc. Columbia, S. C.	35,195.00
Porter Brothers, Inc. Shelby, N. C.	39,160.00
SMCP Atlanta, Ga.	Bid Rejected/Improper Bid Deposit

CLAIMS - JOHN KELLEY (SEWER)- KENNETH GRAHAM (WATER)

The City Manager presented claims received from John Kelley and Kenneth Graham.

Mayor McDevitt referred the claims to the Corporation Counsel for investigation and recommendation.

the regular Council session which follows, requesting the local delegation to consider introducing an amendment to Article 14 of G. S. Chapter 113A which would allow the City of Asheville to eliminate the 3000 foot elevation requirement immediately, or other appropriate legislation; and convey this request in proper form to the local delegation in Raleigh by April 11. A staff member of the N. C. Dept. of Natural Resources and Community Development has offered to be present after 1:30 p.m. Tuesday if desired.

The first option can of course be pursued at a later date. An amendment has already been proposed that would prohibit the construction of "Tall Buildings" located on a ridge above 2300 feet. However the procedures for amending the Local Zoning Ordinance are lengthy and restriction to an elevation of 2300 feet could have considerable opposition.

Therefore we strongly urge the City Council to take the opportunity presently offered in the second option, to amend the State Ridge Law, and act in a timely manner.

Respectfully yours,

H. M. Heywood, Jr. for
Local Citizens Committee

cc: City Council Members
N. C. Rep. Marie Colton
N. C. Rep. Martin Nesbitt
Chmn. P & Z Commission
Rep. North Asheville, West Asheville, Grove Park, Sunset Mountain, Haw Creek and Redwood Forest

Mr. Heywood said the Committee is concerned about future development projects in the City of Asheville such as Sunset Point Condominiums. He said the group is not, at present, opposing this specific project; however, their particular interest is in height restrictions. He said he felt this request and procedure is the fast st way to deal with a project which has a lot of citizen opposition.

David Long and David Quinn, staff members of the N. C. Department of Natural Resources and Community Development, speaking as citi ens of Asheville, said they were concerned about height restrictions in the City of Asheville. They also requested that the City Council endorse an amendment to the State Ridge Law to the Buncombe County Legislative delegation.

Upon inquiry of Councilman Price, Mr. Emrick, Director of Planning, said there were approximately three areas in the City of Asheville that would be affected by the State Ridge Law. He said those areas include Cisco Mountain, Piney Mountain and Patton Mountain.

Upon inquiry of Councilman Boland, Verl Emrick, Director of Planning, said if the State Legislators amend the State Ridge Law, it would also be necessary to adopt a local ordinance to reduce elevation requirements. He said this could be accomplished by an amendment to the Zoning Ordinance.

committee members reported that the proposed condominiums were comprised of 4 buildings to include 192 units located between Sunset Ridge Condominiums (old Tiara Apartments) and Seelys Castle. The height is to be 12 stories-plus for a total of 165 feet, a total area of 379,200 feet and about 2800 foot elevation.

Discussion of a proposed strategy followed. This strategy was developed based on a study of the State Ridge Law and discussions with Phillip P. Green and Milton Heath, Institute of Government, Chapel Hill; Ms. Norma Price, Asheville City Council; Rep. Marie Colton and Rep. Martin Nesbitt, N. C. Legislature. We are very appreciative of their counsel.

It appears that there are two options available to the City of Asheville for preventing excessive building heights, such as proposed in the captioned development:

(a) Enact height restrictions in the local zoning ordinance.
(b) Pursue an ammendment to the N. C. State Ridge Law.

The second option involves amending the State Ridge Law so as to allow the City of Asheville to elect to eliminate the 3000 foot elevation requirements. The State Ridge Law would then prohibit construction (under G. S. 113A-209) of any "Tall Buildings" located on a ridge at an elevation 500 feet or more above the valley floor of about 2200 feet elevation. When taking into account the 100 foot buffer this would set the requirement at about 2600 feet. Specifically it would be necessary for the Asheville City Council to request of the local legislative delegation that they consider sponsoring the necessary amendment to the State Ridge Law or any other legislation that would get the job done. Any such legislation would very likely be tagged as a local bill and therefore would have to be filed by April 15 if it is to be considered this year which means the request from City Council would have to be in the hands of our delegation by April 10 or April 11 at the latest for consideration and processing. This request would of course be made to protect this City against <u>any</u> development of "Tall Buildings" on ridges above 2600 feet elevation, not just the captioned project. Until a developer secures a building permit he does not gain a vested right to proceed with construction and either the Local Zoning Ordinance or the State Ridge Law may be amended for the purpose of preventing excessive building heights.

It should be pointed out here that under the State Ridge Law the County does have the authority to eliminate the 3000 foot requirement in connection with ridges not within the City limits. Expert opinion is that the City does not have this authority simply because of word "city" was inadvertently left out when the law was originally written, and the County probably does not have jurisdiction over land use in the City.

Since time is of the essence we would hope that you are already aware of the widespread opposition to such development, and that petitions are being signed. Therefore we respectfully request that you place this matter on the agenda for "pre-council" work session on Tuesday, April 9 for discussion; and request that you subsequently pass a resolution at

LMcD:msb

cc: Senator Robert S. Swain
Senator Dennis J. Winner
Representative Marie W. Colton
Representative Narvel J. Crawford
Representative Martin L. Nesbitt

Mayor McDevitt noted that his law firm represents the developer proposing to develop the Sunset Point Condominiums. He said his position in voting on the request to the local delegation relative to amending the State Ridge Law is not tied to or aimed at any particular project.

After discussion, Councilman Boland moved that Mayor McDevitt be authorized to forward the proposed letter to the local legislative delegation. This motion was seconded by Councilman Price and carried unanimously.

ANNOUNCEMENT OF LEGISLATIVE BREAKFAST

Mayor McDevitt announced that members of Council would be meeting with several members of the Buncombe County Legislative Delegation on Monday, April 15, 1985, at 7:15 a.m. to discuss several legislative requests.

ADJOURNMENT

Upon motion of Councilman Boland, seconded by Councilman Price, the meeting adjourned at 5:10 p.m.

Larry McDevitt
MAYOR

Miriam J. Metcalf
CITY CLERK

After discussion, Mayor McDevitt read the following proposed letter to be forwarded to the Buncombe County legislative delegates:

April 9, 1985

The Honorable Gordon H. Greenwood
Legislative Building - Room 632
116 West Jones Street
Raleigh, N. C. 27611

Dear Representative Greenwood:

A group of concerned citizens of the City of Asheville has requested the City Council to take some action to restrict high rise development upon the ridges within the City. As you are aware, the State Ridge Law was enacted in 1983 and that law provides in G. S. 13A-206 (6) that it is applicable to mountain ridges with an elevation of 3,000 feet and in addition whose elevation is 500 or more feet above an adjacent valley floor. Cities and counties were authorized by G. S. 13A-208 to adopt specific regulatory ordinances, but the City of Asheville, as did most if not all cities and counties, opted to operate within the framework of the state law rather than enacting a local ordinance.

G. S. 13A-206 (6) provides that "a county may elect to terminate" the 3,000 foot requirement. That provision does not grant a city the same authority, and we also had some question as to whether the authority to eliminate the 3,000 foot requirement would include the authority to reduce that requirement to a lesser height. In addition, we had concern that such action might not be authorized after January 1, 1984, since the state law appears to contemplate having everything finalized by that date. G. S. 13A-212, in fact, requires that a map of the protected ridges "be permanently filed" in the Register of Deeds in each county by January 1, 1984.

In order for City Council to have the same authority as Buncombe County in this area, we request that you and the other members of the local delegation introduce either special legislation or an amendment to Article 14 of Chapter 13A of the North Carolina General Statutes to authorize the City of Asheville to reduce or eliminate by ordinance or resolution the 3,000 foot requirement of G. S. 13A-206 (6) and to provide that the recording of the map required by G. S. 13A-212 be within a reasonable time after enactment of the ordinance or resolution rather than by January 1, 1984, as currently required.

On behalf of the entire Council I would like to thank you and other members of the delegation again for your efforts on our behalf. We look forward to seeing you in the near future.

Very truly yours,

ASHEVILLE CITY COUNCIL

By: Larry McDevitt
Mayor

Mayor McDevitt said the Asheville Planning and Zoning Commission reviewed the request at its regular meeting of February 6, 1985 and delayed action requesting the R. L. Coleman Company and the Kenilworth Forest Association to meet to attempt to reach some compromise on several issues which were producing an impass and report to the Commission on February 27, 1985. At the February 27, 1985 meeting the Commission voted to approve a portion of the rezoning request. In addition, the Commission voted to provide additional R-3 buffers to assist in protecting the White Pine Drive areas. This ordinance passed on first reading on March 26, 1985 and on second reading on April 2, 1985.

Mayor McDevitt said members of Council were furnished copies of the ordinance and it would not be read in its entirety.

Mr. Jerry Gentry said he had been working with Mr. Bob Long and Mr. Ron Payne, Attorneys, and is asking that Council delay action until an agreement can be worked out with the Coleman developers.

A representative from Mr. Bob Long's and Mr. Ron Payne's office said Mr. Long and Mr. Payne were in Court and could not attend the meeting. Therefore, they would ask that Council delay action until they could attend.

Jack Stevens said he does not object to a delay and will continue to work with the homeowners on an agreement during this time.

Councilman Boland moved to continue the third reading of this ordinance for two weeks with the understanding that Council will act in two weeks one way or another whether there is an agreement or not. This motion was seconded by Councilman Bissette and carried unanimously.

REPORT - 37 EAST CHESTNUT STREET (KEITH HARWOOD)

5. Mayor McDevitt said on January 15, 1985 Council adopted Resolution No. 84-5 authorizing an agreement by and between Keith E. Harwood and wife Deborah Joan Harwood, owners of 37 East Chestnut Street, to rehabilitate the apartment house known as 37 East Chestnut Street. Said agreement provided that Mr. Harwood would report to Council on April 16, 1985 as to whether or not the apartment house had been brought into compliance with the North Carolina State Building Code and the minimum Housing Code of the City of Asheville.

Mr. Harwood said he had been working on the house, but had encountered several problems, as well as bad weather. He requested that Council extend the time for completion of rehabilitation to 37 E. Chestnut for another six months.

Lem Moore, Director of Inspections, said due to the weather, he agrees to the six-month extension. He requested that Mr. Harwood sign an amendment to his agreement for the extension, and after that time if the house is not up to code, that the demolition order be carried out regardless of what Mr. Harwood had invested at that point.

Mr. Harwood is to report back to Council on October 15, 1985.

Tuesday - April 16, 1985 - 4:00 p.m.

Regular Meeting

Present: Mayor Larry McDevitt, Presiding; Vice-Mayor Wilhelmina Bratton; Councilmen Norma T. Price, Gordon Myers, Walter R. Boland, and Louis Bissette; Corporation Counsel William F. Slawter; City Manager Neal Creighton; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Councilman Mary Lloyd Frank

INVOCATION

The invocation was given by Vice-Mayor Bratton.

APPROVAL OF THE MINUTES - OF THE April 9, 1985 MEETING

1. Approval of the minutes of the April 9, 1985 meeting.

Mayor McDevitt announced the approval of the minutes of the April 9, 1985 meeting as submitted.

REPORT ON PLANS FOR CLEANUP WEEK - APRIL 20-27, 1985

2. Ray Kisiah, Director of Parks, Recreation and Public Facilities invited Council to a "Blast Off", Saturday, April 20, 1985 at 9:00 a.m. at the City-County Plaza. He said April 20-27 has been designated as "Clean Up Week" with special activities planned for the entire week.

PROCLAMATION - APRIL 14-21, 1985 - "DAYS OF REMEMBRANCE OF THE VICTIMS OF THE HOLOCAUST"

3. Mayor McDevitt said he received a letter from the Chairman of the Holocaust Council asking him to appoint a liaison for the 1985 observance. He contacted Rabbi Paul Grob who agreed to be the liaison for this event.

Mayor McDevitt read a proclamation proclaiming the week of April 14-21, 1985 as "Days of Remembrance of the Victims of the Holocaust".

Mayor McDevitt presented the proclamation to Rabbi Paul Grob. Rabbi Grob read a statement relative to the history of the victims of the holocaust.

ORDINANCE NO. 1504 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AS ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED - PROPERTY IS LOCATED ON PERIMETER OF ASHEVILLE MALL (R. L. COLEMAN, JR. PETITION)

4. Consideration was given to the third reading of Ordinance No. 1504, an ordinance providing for the zoning of the City of Asheville," as amended - property is located on perimeter of Asheville Mall (R. L. Coleman, Jr. Petition)

Mayor McDevitt said the North Carolina Department of Transportation, Public Transportation Division, is authorized to make grants for Mass Transportation Projects. The City of Asheville has made application to the Department of Transportation, United States of America, under the Urban Mass Transportation Act of 1964, as amended, for a Section 8 grant. The federal assistance available under Section 8 will not exceed 80% of the net project costs. The City of Asheville will provide an additional 10% of the total project costs. It is in the best interest of the City of Asheville to file an application with the North Carolina Department of Transportation for the remaining 10% necessary to implement the 1985-86 Asheville Urban Area Unified Work Program under Section 8 of the Urban Mass Transportation Act of 1964, as amended. Funds are anticipated as follows:

UMTA	$20,000
NCDOT	2,500
City	2,500
TOTAL	$25,000

Mayor McDevitt said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Price, seconded by Councilman Boland, Resolution No. 85-60 was unanimously adopted.

Complete text of Resolution No. 85-60 will be found in Resolution Book No. 15 at page 193.

RESOLUTION NO. 85-61 - RESOLUTION AUTHORIZING THE FILING OF AN APPLICATION WITH THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION FOR STATE FUNDS IN SUPPORT OF THE CAPITAL IMPROVEMENTS PROJECT AND PLANNING PROGRAM

8. Consideration was given to a resolution authorizing the filing of an application with the North Carolina Department of Transportation for State funds in support of the Capital Improvements Project and Planning Program.

Mayor McDevitt said the N. C. Department of Transportation, Public Transportation Division, is authorized to make grants for Mass Transportation Projects. The City of Asheville has made application to the Department of Transportation, United States of America, under the Urban Mass Transportation Act of 1964, as amended, for a Section 9 grant. The federal assistance available under Section 9 will not exceed 80% of the net project costs. The City will provide an additional 10% of the total project costs. It is in the best interest of the City of Asheville to file an application with the N. C. Department of Transportation for the remaining 10% to implement the Capital Improvements Project and Planning Program under Section 9 of the Urban Mass Transportation Act of 1964, as amended. Funds are anticipated as follows:

UMTA	$1,051,890
NCDOT	83,200
ASHEVILLE	469,490
TOTAL	$1,604.580

Vice-Mayor Bratton made a motion authorizing the Mayor to execute an amendment to the agreement of January 15, 1985, by and between Keith E. Harwood and wife Deborah Joan Harwood, owners of 37 East Chestnut Street, Asheville, North Carolina, and the City of Asheville, in order to extend the time for completion of rehabilitation to the apartment house at said location until the 16th day of October, 1985. This motion was seconded by Councilman Price and carried unanimously.

RESOLUTION 85-59 - RESOLUTION AUTHORIZING THE ASHEVILLE HOUSING AUTHORITY TO PROCESS THE CLAIM OF MR. AND MRS. ERASTUS YOUNG FOR ELIGIBLE RELOCATION ASSISTANCE UNDER THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT OF 1970 (UNIFORM ACT)

6. Consideration was given to a resolution authorizing the Asheville Housing Authority to process the claim of Mr. and Mrs. Erastus Young for eligible relocation assistance under the Department of Housing and Urban Development Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Uniform Act).

Mayor McDevitt said the property of Mr. and Mrs. Erastus Young, known as 40 Beech Street, was acquired by the Asheville Housing Authority during the East Riverside Urban Renewal Project. Mr. and Mrs. Erastus Young continued to reside on said property pursuant to Resolution No. 76-165. The East Riverside Urban Renewal Project was closed out financially in 1980. Mr. and Mrs. Erastus Young have purchased a replacement dwelling and have filed a request with the Asheville Housing Authority for relocation assistance. Sufficient funds are available in the Asheville Housing Authority Community Development East End/Valley Street Improvement Project Relocation account to process said claim and to award eligible benefits. Funds are available for payment in the amount of $15,460.00 in the Community Development East End/Valley Street Improvement Project - Relocation account.

Mayor McDevitt said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Price, seconded by Councilman Boland, Resolution No. 85-59 was unanimously adopted.

Complete text of Resolution No. 85-59 will be found in Resolution Book No. 15 at page ~~192~~.

RESOLUTION NO. 85-60 - RESOLUTION AUTHORIZING THE FILING OF AN APPLICATION WITH THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION FOR STATE FUNDS IN SUPPORT OF TECHNICAL STUDIES PROJECT FOR THE ASHEVILLE URBAN AREA UNIFIED WORK PROGRAM

7. Consideration was given to a resolution authorizing the filing of an application with the North Carolina Department of Transportation for State funds in support of Technical Studies Project for the Asheville Urban Area Unified Work Program.

Therefore, by unanimous vote to approve these items, the City Council may, pursuant to the procedures established in Ordinance No. 1008, adopt all of the items with one motion without the full reading and/or separate motion adopting each individual item. Upon the request of a citizen, a member of the City Council, and/or a member of the City staff, any single item scheduled for approval on the consent agenda may be considered separately.

A. Motion scheduling a public hearing relative to rezoning property located at 31 Granby Street and 18 Arden Road for May 14, 1985.

Mayor McDevitt said the Asheville Planning and Zoning Commission at a meeting held April 3, 1985, considered the request of Mr. John Nilsson, Agent for Asheville Hand Center, that Ward 1, Sheet 8, Lots 141 and 143 be rezoned from R-2 Residential District to OI Office Institutional District. The property is located at 31 Granby Street and 18 Arden Road. After review and discussion, the Commission voted to recommend to City Council that Ward 1, Sheet 8, Lot 141 and a portion of Lot 143, be rezoned from R-2 Residential District to OI office Institutional District, leaving a 30' R-2 Residential District buffer along Granby Street and Arden Road.

B. Motion scheduling a public hearing to rezoning property located behind Pearlman's on Tunnel Road for May 14, 1985.

Mayor McDevitt said the Asheville Planning and Zoning Commission at a meeting held April 3, 1985, considered the request of Mr. Steve Russell, Trust Office NCNB, for Julian Long Estate, and Mr. M. M. Pearlman that Ward 8, Sheet 11, Lots 50 and 51, be rezoned from R-3 Residential District to CH Commercial Highway District. This property is located behind Pearlman's on Tunnel Road. After review and discussion, the Commission voted to recommend to City Council that Ward 8, Sheet 11, Lots 50 and 51, be rezoned from R-3 Residential District to CH Commercial Highway District.

C. Motion scheduling a public hearing relative to rezoning property located at 941 Fairview Road for May 14, 1985.

Mayor McDevitt said the Asheville Planning and Zoning Commission at a meeting held April 3, 1985, considered the request of Mr. James Schumacher that Ward 7, Sheet 27, Lot 42, be rezoned from LI Light Industrial District to R-3 Residential District. This property is located at 941 Fairview Road. After review and discussion, the Commission voted to recommend to City Council that Ward 7, Sheet 27, Lot 42, be rezoned from LI Light Industrial District to R-3 Residential District.

D. Motion scheduling a public hearing relative to a site plan of the proposed expansion of the Beaucatcher Cinemas located on Haw Creek Lane for May 7, 1985.

Mayor McDevitt said the Asheville Planning and Zoning Commission at a meeting held April 3, 1985, reviewed the site plan of the proposed expansion of the Beaucatcher Cinemas located on Haw Creek Lane. The plan was prepared by Hiller and Hiller, Architects, Greenville, S. C., for the Litchfield Company, Developer, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of the site plan to City Council subject to compliance with the Erosion Control Ordinance.

Mayor McDevitt said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Price, seconded by Councilman Myers, Resolution No. 85-61 was unanimously adopted.

Complete text of Resolution No. 85-61 will be found in Resolution Book No. 15 at page 194.

MOTION - IDENTIFICATION SIGN PERMIT - 280 NORTH HANOVER STREET

9. Consideration was given to a motion approving a sign permit to erect an identification sign at 280 North Hanover Street.

Mayor McDevitt said Hensley-Snyder Sign Company has requested a sign permit to erect a freestanding identification sign, 6' x 20', at 280 North Hanover Street advertising "Stowaway Self Service Storage". Pursuant to the Zoning Ordinance, this sign requires the approval of City Council since it will be situated closer than 600' from a limited access highway.

Verl Emrick presented the sign request and said all requirements of the Zoning Ordinance have been met. He said this will be a mini warehouse operation.

Mr. Ron Snyder of Hensley-Snyder Sign Company, by the use of a map, showed the location of where the proposed sign would be erected.

Councilman Price moved to continue the approval of the sign request until the Group Development request is considered by Council for review. This motion was seconded by Councilman Boland and carried unanimously.

BIDS - BITUMINOUS CONCRETE MATERIALS (ASPHALT)

10. Consideration was given to bids received for bituminous concrete materials (asphalt).

Mayor McDevitt said one bid was received for a term purchase contract to furnish the City's annual requirement for asphalt for force account resurfacing and street repair. Since only one bid was received, a market survey was conducted and the bid price was found to be consistent with other cities and the state's current costs. It is recommended to award this contract to APAC-Carolina, Asheville Division, in the amount of $161,675.00. Purchases will be made as required.

Councilman Boland moved to accept the bid, as recommended, to APAC-Carolina in the amount of $161,675.00. This motion was seconded by Councilman Bissette and carried unanimously.

APPROVAL OF THE CONSENT AGENDA

11. Consideration was given to a motion approving the Consent Agenda.

Mayor McDevitt said the following items are of a routine nature and they have been previously reviewed by the members of the City Council.

Tuesday - April 23, 1985 - 4:00 p.m.

Regular Meeting

Present: Mayor Larry McDevitt, Presiding; Vice-Mayor Wilhelmina Bratton; Councilmen Mary Lloyd Frank, Norma T. Price, Walter R. Boland, and Louis Bissette; Corporation Counsel William F. Slawter; City Manager Neal Creighton; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Councilman Gordon Myers.

INVOCATION

The invocation was given by Mayor McDevitt.

APPROVAL OF THE MINUTES - APRIL 16, 1985, MEETING

1. Approval of the minutes of the April 16, 1985, meeting.

Vice Mayor Bratton requested the minutes be corrected to reflect that Rabbi Ronald C. Bluming gave the invocation at the April 16 meeting.

Mayor McDevitt announced the approval of the minutes as corrected by Vice Mayor Bratton.

ANNOUNCEMENT - RELATIVE TO KICK OFF FOR BELE CHERE 1985 - JULY 26-28, 1985

2. Ray Kisiah, Director of Parks, Recreation, and Public Facilities and Jim Daniels, Chairman of the Bele Chere Board, announced that Bele Chere 1985 would be held July 26-28, 1985. This announcement was made amid the live "rag time" music provided by Steve Becker. Several staff members associated with the planning activities of Bele Chere distributed balloons to members of City Council.

Mr. Daniels said that for the second consecutive year Mr. J. D. Jackson, Jr. will be the Chairman of the Bele Chere Festival.

Invitations to participate in all the Bele Chere activities were extended to the Council and the public.

PROCLAMATION - "PRIVATE PROPERTY WEEK" - APRIL 28 - MAY 4, 1985

3. Mayor McDevitt proclaimed the week of April 28 - May 4, 1985, as "Private Property Week," and presented the proclamation to Ben McKenzie.

PROCLAMATION - "SPECIAL POPULATIONS WEEK" - APRIL 22-28, 1985

4. Mayor McDevitt proclaimed the week of April 22-28, 1985, as "Special Populations Week," and presented the proclamation to Toni Patterson, a senior at Lucy Herring School and a participant in the Special Olympics.

E. Motion to schedule a public hearing relative to a site plan of the proposed Twin Oaks Mobile Home Park to be located on Bingham Road for May 7, 1985.

Mayor McDevitt said the Asheville Planning and Zoning Commission at a meeting held April 3, 1985, reviewed the site plan of the proposed Twin Oaks Mobile Home Park to be located on Bingham Road. The plan was prepared by Ray Anders and Associates for Mr. Allen Moss, Developer, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of the site plan to City Council subject to a 6" water line being shown to serve the fire hydrants, and compliance with the Erosion Control Ordinance.

F. Motion to schedule a public hearing for Community Development Objectives and projected use of funds from 7/1/85 through 6/30/86 for May 7, 1985.

Mayor McDevitt said during the fiscal year beginning July 1, 1985, the City of Asheville anticipates receiving $1,382,000 from the U. S. Department of Housing and Urban Development through the Community Development Block Grant Entitlement Program. Use of the funds is restricted to activities which will benefit low and moderate income persons or aid in the prevention or elimination of slums or blighted areas. At least 51% of the entitlement must be used for activities which benefit low and moderate income persons. This public hearing will afford the citizens of Asheville an opportunity to voice their opinions relative to the objectives and proposed use of funds for 1985-86. Based on the Department of Housing and Urban Development projections, the City's Community Development Block Grant entitlement for 1985-86 will be $1,382,000.

Councilman Price moved for adoption of the Consent Agenda. This motion was seconded by Councilman Bissette and carried unanimously.

CLAIMS - SHIRLEY BROWN (SEWER) - ANN HUNSUCKER (SEWER) - EDGAR SHEPHERD (SANITATION) - CYNTHIA HART (WATER) - LILLIAN WALLEY - (PARKS & RECREATION/STREETS) - WYAND DOERNER (POLICE) - WILLIAM QUEEN (WATER)

The City Manager presented claims received from Shirley Brown, Ann Hunsucker, Edgar Shepherd, Cynthia Hart, Lilliam Walley, Wyand Doerner, and William Queen.

Mayor McDevitt referred the claims to the Corporation Counsel for investigation and recommendation.

RALPH BISHOP - COMMENTS RELATIVE TO POLICE CHIEF J. C. HALL AND LOTTERY SALES

Ralph Bishop spoke to Council regarding former Police Chief J. C. Hall's disability and on lottery sales in Asheville.

Upon motion of Councilman Price, seconded by Councilman Bissette, the meeting adjourned at 5:45 p.m.

Lacy McDevitt
MAYOR

William F. Nesbitt
CITY CLERK

Mr. Newcomer said a 35-40 million dollar project is proposed for the area. He said the project would include a 160-room hotel, an athletic center and restaurant, and 230 condominiums. He said picnic tables, an open area, and jogging trails are proposed for the church side of the property. He said the development would provide approximately 200 full-time jobs. He answered general questions from members of Council relative to height and access.

Mayor McDevitt asked if there were any adjacent property owners or any members of Gashes Creek Baptist Church present who wished to address the Council on this issue.

Mayor McDevitt said Earl McIntire had informed him that he did not know what involvement the State would have at this time beyond driveway permits; however, if the Council requested it, the State would be glad to take a look at what their involvements might be.

Mayor McDevitt closed the public hearing at 4:50 p.m.

Councilman Bissette moved for the adoption of Ordinance No. 1510. This motion was seconded by Vice Mayor Bratton.

Councilman Price said this rezoning request is coming before Council at a very stategic time due to local legislation now pending in Raleigh and a public hearing proposed May 7 relative to height restrictions. She said it was her feeling that this area could best be served by remaining R-2 designation. She said she would have a problem in voting to rezone the whole 81 acre tract. She said she would prefer waiting to vote on this issue until information could be obtained on the traffic situation and other questions.

Councilman Boland said it is difficult for City Council to make a decision due to the concerns citizens have expressed relative to ridges and mountain tops. He said the proposed legislation relative to the 3,000 foot rule makes the issue more complex.

Councilman Boland offered a substitute motion to remand the issue back to the Planning and Zoning Commission with instructions to evaluate the rezoning as to traffic, ridge law, and the comprehensive plan. This motion was seconded by Councilman Price.

Councilman Bissette said it would be very unfair to the developer to table this issue indefinitely.

A discussion followed relative to the time table anticipated for the comprehensive plan and the 100 day limitation on matters pending before the Council.

Mr. Thompson said, as he understood it, the project would not be affected by the 3,000 foot ridge law.

Mayor McDevitt said the City currently has a local bill pending before the legislature that will exempt the City from the State ridge law and give the City Council authority to set its own limits. He said the General Assembly could act in a matter of weeks, but this was something he could not predict.

PROCLAMATION - SECRETARIES WEEK

In order : Mayor McDevitt proclaimed the week of April 22-28, 1985, as "Secretaries Week."

PUBLIC HEARING - REZONING PROPERTY KNOWN AS HEMPHILL KNOLL AT GASHES CREEK AND I-40 .

ORDINANCE NO. 1510 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED. (PROPERTY KNOWN AS HEMPHILL KNOLL AT GASHES CREEK AND I-40)

5. A public hearing was held relative to an ordinance amending Ordinance No. 322, known as "an ordinance providing for the zoning of the City of Asheville," as amended. (Property known as Hemphill Knoll at Gashes Creek and I-40.)

Mayor McDevitt said the Asheville Planning and Zoning Commission at a meeting held March 13, 1985, considered the request of Mr. George Beverly, Agent, that Ward 13, Sheet 33, Lot 68, and Ward 13, Sheet 34, Lot 11, be rezoned from R-2 Residential District to OI Office Institutional District. The property is known as Hemphill Knoll at Gashes Creek and I-40. After review and discussion, the Commission voted to recommend to City Council that a portion of Lot 68, Sheet 33, Ward 13, and a portion of Lot 11, Sheet 34, Ward 13, be rezoned from R-2 Residential District to OI Office Institutional District. This would leave a 100-foot strip of R-2 buffer on the southern border, abutting the Blue Ridge Parkway and Lot 78, Sheet 33, Ward 13, and on the northwestern margin abutting Lots 37-1/4 and 8-1/4, Sheet 33, Ward 13.

Mayor McDevitt opened the public hearing at 4:31 p.m.

The City Clerk presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said the proposal before Council is to rezone a complete 81 acre tract from R-2 - Residential District to OI - Office Institutional District. He said the primary reason for the request was for development of the property, as displayed on the map for view of the Council and the public. He said the Planning and Zoning Commission did consider this request at their March 13 meeting, and the Commission recommended approval of the request upon including a 100' R-2 buffer on the southern and northwestern borders.

Mr. Emrick said letters of protest had been received from Senator Robert Swain, other adjoining property owners, and the Gashes Creek Baptist Church.

Mr. George Beverly, representing the Hemphill heirs, introduced Mr. Charles Newcomer, Project Developer, who, in turn, introduced Mr. Mike Thompson, Architect for the project.

Mr. Emrick said the primary reason for the rezoning request is because the lot is currently split with two zoning designations. One part is zoned C-H - Commercial Highway District and the other part is zoned R-2 - Residential District.

Marvin Pope, Attorney, for Mr. and Mrs. Elmer Frink, showed photographs and a diagram of the property. He said this property is located next to the Beverly Hills Beauty and Barber Shop. He said the Frinks do not have any plans to build on this property.

Walter Fletcher, who owns property adjacent to the Frink's property, spoke in opposition to the rezoning. He said all of the property owners in the area had attended the Planning and Zoning Commission meeting in March and had voiced their objections at that time to the rezoning. He said the residents are concerned about devaluation in property, and also, if the property is rezoned Commercial Highway, it opens up the possibility of a McDonald's or some similar development on the property. He said the majority of residents use Arco Road as an access to Tunnel Road, and development of the property would cause a bottle-neck in traffic.

Councilman Price said she supports Mr. Fletcher's concerns and that this could possibly have a domino effect in the neighborhood.

Mayor McDevitt returned to the meeting at 5:50 p.m.

Mayor McDevitt said he had problems voting for something which will do away with the neighborhood concept.

Vice Mayor Bratton closed the public hearing at 5:51 p.m.

Vice Mayor Bratton said members of Council were furnished copies of the ordinance and it would not be read in its entirety unless there was a specific request to do so.

For lack of a motion, Ordinance No. 1511 failed on first reading.

Copy of Ordinance No. 1511 will be found in Ordinance Book No. 10, page 260.

Mayor McDevitt took over the Chair and presided over the rest of the meeting.

Mayor McDevitt said he wanted Mr. Pope, the Frinks, and Mr. Fletcher to understand the action just taken by Council. He said no motion was made because there was no support for the request; therefore, the request was denied.

PUBLIC HEARING - REZONING PROPERTY AT 800 FAIRVIEW ROAD

ORDINANCE NO. 1512 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED. (800 FAIRVIEW ROAD - RIVER RIDGE MARKET PLACE)

7. A public hearing was held relative to an ordinance amending Ordinance No. 322, known as "an ordinance providing for the zoning of the City of Asheville," as amended. (800 Fairview Road - River Ridge Market Place)

Mr. Beverly said a lot of option money had been invested up to this point and that the developer was under some time constraints. He said their original request to the Planning Department had been to rezone the property to C-H - Commercial Highway District. He said the Planning Department had spent a great deal of time studying that and had told him that that would be considered "spot zoning," and advised him to proceed with the O-I - Office Institutional designation for the whole tract.

Mr. Thompson said this matter will come before the Council again under a group development request and that Council's concerns seem to apply more under the group development process than under the rezoning request.

With the consent of Councilman Price, Councilman Boland withdrew his substitute motion.

Councilman Boland then moved to postpone the second reading of Ordinance No. 1510 until May 28 and that the staff furnish the Council with answers relative to their questions regarding access, traffic, and the ridge law. This motion was seconded by Councilman Price and carried unanimously.

Note: 4/23/85 minutes amended See 5/21/85 minutes pg. 157

On a roll call vote of 5-1, Ordinance No. 1510 passed on first reading with Mayor McDevitt voting "no."

Mayor McDevitt turned the Chair over to Vice Mayor Bratton at 5:31 p.m.

PUBLIC HEARING - REZONING PROPERTY ON ARCO ROAD

ORDINANCE NO. 1511 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED (ARCO ROAD)

6. A public hearing was held relative to an ordinance amending Ordinance No. 322, known as "an ordinance providing for the zoning of the City of Asheville," as amended (Arco Road).

Mayor McDevitt said the Asheville Planning and Zoning Commission at a meeting held March 13, 1985, considered the request of Attorney Marvin Pope for Mr. Elmer Frink that Ward 8, Sheet 13, portion of Lot 192, be rezoned from R-2 Residential District to CH Commercial Highway District. This property is located on Arco Road. After review and discussion, the Commission voted to recommend to City Council that Ward 8, Sheet 13, a portion of Lot 192, be rezoned from R-2 Residential District to CH Commercial Highway District.

Vice Mayor Bratton opened the public hearing at 5:32 p.m.

The City Clerk presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said the Asheville Planning and Zoning Commission had reviewed this request at their March meeting and recommended approval of the request to the City Council. By use of a map Mr. Emrick located the property for City Council.

John Rogers, Architect for the Haywood Street Redevelopment Corporation, Developer, said the new name of the Hotel would now be the Haywood Park Hotel. He said the hotel would include 33 executive suites and the ground floor would be used for a restaurant and retail shops. He said the anticipated project cost is $1,600,000.

Mayor McDevitt closed the public hearing at 6:05 p.m.

Councilman Frank moved to approve the site plan for Phase I of the Haywood Park Hotel. This motion was seconded by Councilman Price and carried unanimously.

RESOLUTION NO. 85-62 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE LEASE/PURCHASE AGREEMENTS

9. Consideration was given to a resolution authorizing the City Manager to execute lease/purchase agreements.

Mayor McDevitt said N.C. General Statute section 160A-20 provides for the purchase of personal property by installment contracts which create in the property purchased a security interest to secure payments of the purchase money. The Purchasing Director has received proposals for the lease/purchase financing of motor vehicles, air compressors, front end loader, forklift, and salt and sand spreaders. Twelve (12) proposals were received; however, only five (5) met the requirements. It is recommended to award this agreement to Southern National Leasing Corporation, Charlotte, North Carolina. Savings to the City over a three-year period will be $39,924.54 for equipment leased/purchased for thirty-six (36) months, and $3,086.99 for equipment leased/purchased for twenty-four (24) months. This would be a total savings to the City of $43,011.53 over a cash purchase. Appropriation for all the equipment is included in the FY '85 budget.

Mayor McDevitt said this matter had been discussed during the pre-Council session and during that time the Council had learned that First Union National Bank was actually the low bidder and the reason they were not recommended is because they had included a limitation date of April 15, 1985, in their proposal.

Larry Fisher, Director of Finance, said the City could save over $40,000 in lease/purchasing this equipment as opposed to buying outright. He said another $800 could be saved by the City in awarding the bid to First Union National Bank.

Upon inquiry of Mayor McDevitt, Corporation Counsel Bill Slawter said Council could legally award the bid to First Union National Bank.

Upon motion of Councilman Bissette, seconded by Councilman Price, Resolution No. 85-62 was unanimously adopted awarding the bid for the lease/purchase to First Union National Bank.

Complete text of Resolution No. 85-62 will be found in Resolution Book No. 15 at page 195.

Mayor McDevitt said the Asheville Planning and Zoning Commission at a meeting held March 13, 1985, considered the request of Bob Hughes and Associates that Ward 7, Sheet 51, Lot 1, be rezoned from LI Light Industrial District to CH Commercial Highway District. The property is located at 800 Fairview Road (River Ridge Market Place). After review and discussion, the Commission voted to recommend to City Council that Ward 7, Sheet 51, Lot 1, be rezoned from LI Light Industrial District to CH Commercial Highway District.

Mayor McDevitt opened the public hearing at 5:55 p.m.

The City Clerk presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick said the Planning and Zoning Commission had reviewed this request at their March 13 meeting, and the Commission recommends approval of the request to City Council. He said the primary reason for the request is to permit residential development of the property behind the motel. He said the Commerical Highway designation will accommodate this additional development potential.

Carroll Hughes, Architect for this project, said this is Phase IV of the River Ridge Development Project.

Councilman Price moved for the adoption of Ordinance No. 1512. This motion was seconded by Councilman Frank.

On a roll call vote of 6-0, Ordinance No. 1512 passed on first reading.

PUBLIC HEARING - SITE PLAN FOR PHASE I OF HAYWOOD PLAZA HOTEL

8. A public hearing was held relative to the site plan for Phase I of the proposed Haywood Plaza Hotel to be located at the corner of Haywood Street and Battery Park Avenue.

Mayor McDevitt said the Asheville Planning and Zoning Commission at a meeting held March 13, 1985, reviewed the site plan of Phase I of the proposed Haywood Plaza Hotel to be located at the corner of Haywood Street and Battery Park Avenue. The plan was prepared by John Rogers, Architect, for Haywood Street Redevelopment Corporation, Developer, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of the site plan to City Council.

Mayor McDevitt opened the public hearing at 5:58 p.m.

The City Clerk presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said this project involves the renovation of the old Ivey's Department Store. He said Phase I includes the upper floors and a retailing section on the bottom floor and that the work is now being done internally to remove partitions, etc. Mr. Emrick said Phase II and Phase III may involve the Haywood and Starnes buildings. He said that the site plan meets all the requirements of group development and existing ordinances and recommended approval to City Council.

Mayor McDevitt said the Housing Authority has tentatively accepted the following bids for certain disposal parcels in the East End/Valley Street Community Improvement Area.

Parcel	Reuse	Price	Bid	Redeveloper
41	Residential	$3,000	$3,121.99	Johnny Rhodes, Timothy Burdine & Sara Burdine
59	Residential	$3,100	$3,100.00	Meredith Mauldin

Lot 41, located at the corner of Martin Luther King, Jr.

Lot 59, located at the corner of Grail Street and Ridge Street.

The above parcels are residential lot sales for single-family structures under the Incentive Housing Program.

Councilman Price moved to approve the sale of Disposal Parcels 41 and 59 in the East End/Valley Street Community Improvement Area. This motion was seconded by Councilman Frank and carried unanimously.

REPORT - COUNCILMAN BISSETTE RELATIVE TO CABLE TELEVISION

Councilman Bissette said the Council Committee, consisting of himself, Councilman Myers, and Attorney Gary Rowe, has met weekly for the past several weeks. He said this Committee has been assisted by Bill Slawter and his staff. He said they have been in touch with the FCC, other city attorneys, and the Institute of Government in gathering information. He said the Council Committee is continuing its review of the City's legal alternatives which he reported to the Council in an executive session. However, he said, a public disclosure of these legal matters would be premature at this time, but that he would anticipate a further report regarding the City's legal attempts within 30 days.

In the meantime, he said, the Council Committee believes that public response is necessary to determine the level of service that is currently being provided by our franchisee, Asheville Cable Television. He said in conjunction with that, a questionnaire has been developed by the Committee, the Cable Television Committee, and UNCA.

He said the Committee would also like to request the Council's approval for the printing and mailing of the questionnaire to residents receiving cable television service in the City of Asheville. He also requested that Council approve a schedule of public hearings to be held relative to cable television services on May 14 at the Civic Center, May 15 at Hall Fletcher School, on May 16 at Haw Creek School. Councilman Bissette said all of the public hearings would be held at 7:30 p.m. He said this would give City Council the opportunity to gauge whether or not Asheville Cablevision is complying with the franchise.

MOTION - SCHEDULING PUBLIC HEARING - WORDING AMENDMENT TO ZONING ORDINANCE - MAY 7, 1985

10. Consideration was given to a motion scheduling a public hearing relative to amending Ordinance No. 322, known as "an ordinance providing for the zoning of the City of Asheville," as amended (wording amendment relative to proposed structural heights in the R-1, R-2, and R-3 Residential Districts) for May 7, 1985.

Mayor McDevitt said the Asheville Planning and Zoning Commission at a special meeting held April 10, 1985, considered a recommendation regarding proposed structural heights in the R-1, R-2, and R-3 Residential Districts. After discussion, the Commission voted to recommend the following amendment to City Council: "Amend Section 30-5-2. R-1 Residential District, and Section 30-5-3. R-2 Residential District to provide for the following: A) Within the jurisdiction of this ordinance for the zoning districts specified, no building and/or structure may be constructed with a vertical height in excess of fifty (50) feet or three (3) stories. Exemptions: Governmental, quasi governmental or utility structures to include, but not be limited to, water towers/ reservoirs, radio, telephone or television towers or equipment for the transmission of electricity or communications shall be exempt from the provisions contained herein."

Councilman Price moved to schedule a public hearing relative to the proposed wording amendment to the zoning ordinance for May 7, 1985. This motion was seconded by Councilman Frank and carried unanimously.

MOTION - SCHEDULING PUBLIC HEARING RELATIVE TO SITE PLAN OF SWEET CREEK OFFICE PARK

11. Consideration was given to a motion scheduling a public hearing relative to the site plan of the proposed Sweet Creek Office Park to be located on Sweeten Creek Road for May 14, 1985.

Mayor McDevitt said the Asheville Planning and Zoning Commission at a meeting held April 3, 1985, reviewed the site plan of the proposed Sweet Creek Office Park to be located on Sweeten Creek Road. The plan was prepared by John Broadbooks, Landscape Architect, for Ken Partin, Developer, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of the site plan to City Council subject to compliance with the Erosion Control Ordinance.

Councilman Price moved to schedule a public hearing relative to the site plan of the proposed Sweet Creek Office Park for May 14, 1985. This motion was seconded by Councilman Frank and carried unanimously.

MOTION - APPROVAL OF SALE OF DISPOSAL PARCELS 41 AND 59 IN THE EAST END/VALLEY STREET COMMUNITY IMPROVEMENT AREA

12. Consideration was given to a motion approving the sale of Disposal Parcels 41 and 59 in the East End/Valley Street Community Improvement Area.

Tuesday - April 30, 1985 - 4:00 p.m.

Regular Meeting

Present: Mayor Larry McDevitt, Presiding; Vice-Mayor Wilhelmina Bratton; Councilmen Mary Lloyd Frank, Gordon Myers, Walter R. Boland, and Louis Bissette; Corporation Counsel William F. Slawter; City Manager Neal Creighton; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Councilman Norma T. Price.

INVOCATION

The invocation was given by Councilman Frank.

APPROVAL OF THE MINUTES - APRIL 23, 1985, MEETING

1. Approval of the minutes of the April 23, 1985, meeting.

Mayor McDevitt announced the approval of the minutes as submitted with the exception of some typographical changes.

PROCLAMATION - "NATIONAL PRAYER DAY" IN ASHEVILLE - MAY 2, 1985

2. Mayor McDevitt read a proclamation proclaiming May 2, 1985, as National Prayer Day in Asheville.

PROCLAMATION - "RESPECT FOR LAW WEEK" - MAY 1 - MAY 7, 1985

3. Mayor McDevitt proclaimed the week of May 1-7 as "Respect For Law Week" and May 3 as "Law Day" in Asheville.

RESOLUTION NO. 85-63 - RESOLUTION OF APPRECIATION TO DISTRICT COMMANDER ROBERT B. BRYSON

4. Consideration was given to a resolution of appreciation to District Commander Robert B. Bryson.

Mayor McDevitt said Robert B. Bryson has faithfully served the City of Asheville since 1952, being promoted to District Commander in 1982. Robert B. Bryson retired effective April 1, 1985, and the City Council, by this resolution, expresses its appreciation for his loyalty and dedication to the citizens of the City of Asheville.

Upon motion of Councilman Bissette, seconded by Councilman Boland, Resolution No. 85-63 was unanimously adopted.

Mayor McDevitt presented a copy of the Resolution to Robert R. Bryson. Complete text of Resolution No. 85-63 will be found in Resolution Book No. 15 at page 196.

Councilman Bissette moved to request that City Council appropriate $2,000 for printing and mailing of the questionnaire and approval of the public hearings to be held as listed above. This motion was seconded by Councilman Price and carried unanimously.

ORDINANCE NO. 1513 - BUDGET AMENDMENT

Consideration was given to a budget amendment ordinance to authorize $2,000 from the Contingency Fund for the printing and mailing of a questionnaire relative to cable television services.

Vice Mayor Bratton moved for the adoption of Ordinance No. 1513. This motion was seconded by Councilman Boland.

On a roll call vote of 6-0, Ordinance No. 1513 passed an first and final reading.

COUNCILMAN PRICE - REQUEST - CABLE TELEVISION COMMITTEE

Councilman Price requested that the membership of the Cable Television Committee be checked to see whether or not we have full membership.

PETITION - JOE BLY - WATER FOUNTAINS - CITY COUNTY PLAZA/PACK SQUARE

Joe Bly presented a petition to the City Council on behalf of visitors and homefolks of the City, attendees of the Shindig-On-The-Green, and in memory of Fannie B. McCoy for the installation of two (2) new continuously running water fountains in the City County Plaza and for two (2) water fountains on Pack Square.

Mayor McDevitt said Council would look into the request.

CLAIMS - KATHY RIELS (WATER), W.A. ROBBINS (WATER), GEORGE PEBLER (STREETS)

The City Manager presented claims received from Kathy Riels, W. A. Robbins, and George Pebler.

Mayor McDevitt referred the claims to the Corporation Counsel for investigation and recommendation.

ADJOURNMENT

Upon motion of Councilman Price, seconded by Councilman Frank the meeting adjourned at 6:50 p.m.

Lee McDevitt
MAYOR

William F. Wellertz
CITY CLERK

ORDINANCE NO. 1504 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING FOR THE CITY OF ASHEVILLE," AS AMENDED - PROPERTY LOCATED ON PERIMETER OF ASHEVILLE MALL

8. Consideration was given to the third reading of Ordinance No. 1504, an ordinance amending Ordinance No. 322, known as "An ordinance providing for the zoning of the City of Asheville," as amended.

Mayor McDevitt said the Planning and Zoning Commission reviewed the request at its regular meeting of February 6, 1985, and delayed action requesting the R. L. Coleman Company and the Kenilworth Forest Association to meet to attempt to reach some compromise on several issues which were producing an impass and report to the Commission on February 27, 1985. At the February 27, 1985, meeting, the Commission voted to approve a portion of the rezoning request. In addition, the Commission voted to provide additional R-3 buffers to assist in protecting the White Pine Drive areas. This ordinance passed on first reading on March 26, 1985, and on second reading on April 2, 1985.

Mayor McDevitt said this ordinance was previously read on first and second reading and would not be reread in its entirety unless there was a specific request to do so.

Mayor McDevitt said the third reading of Ordinance No. 1504 was recalendared for April 16, at the request of R. L. Coleman Company and the Kenilworth Forest Association residents. At that time, both Mr. Coleman and the neighborhood association asked Council to delay action for two more weeks.

Mr. R. L. Coleman and the adjacent property owners, who are working to reach a compromise on certain elements on the rezoning, asked Council to postpone the third reading for two more weeks.

Upon motion of Councilman Boland, seconded by Councilman Frank, Council agreed to postpone the third reading of Ordinance No. 1504 until May 14.

ORDINANCE NO. 1512 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE" AS AMENDED - PROPERTY LOCATED AT 800 FAIRVIEW ROAD (RIVER RIDGE MARKET PLACE)

9. Consideration was given to the second reading of Ordinance No. 1512, an ordinance amending ordinance No. 322, known as "An ordinance providing for the zoning of the City of Asheville," as amended.

Mayor McDevitt said the Asheville Planning and Zoning Commission at a meeting held March 13, 1985, considered the request of Bob Hughes and Associates that Ward 7, Sheet 51, Lot 1, be rezoned from LI Light Industrial District to CH Commercial Highway District. The property is located at 800 Fairview Road (River Ridge Market Place). After review and discussion, the Commission voted to recommend to City Council that Ward 7, Sheet 51, Lot 1, be rezoned from LI Light Industrial District to CH Commercial Highway District. This ordinance passed on first reading April 23.

Mayor McDevitt said this ordinance was previously read on first reading it would not be reread in its entirety unless there was a specific request to do so.

On a roll call vote of 6-0, Ordinance No. 1512 passed on second reading.

RESOLUTION NO. 85-64 - RESOLUTION OF APPRECIATION TO COMPANY COMMANDER JACK E. WAITES

5. Consideration was given to a resolution of appreciation to Company Commander Jack E. Waites.

Mayor McDevitt said Jack E. Waites has faithfully served the City of Asheville since 1958, being promoted to Company Commander in 1977. Jack E. Waites retired effective April 1, 1985, and the City Council, by this resolution expresses its appreciation for his loyalty and dedication to the citizens of the City of Asheville.

Upon motion of Councilman Frank, seconded by Councilman Myers, Resolution 85-64 was unanimously adopted.

Mayor McDevitt presented a copy of the resolution to Jack E. Waites.

Complete text of Resolution No. 85-64 will be found in Resolution Book No. 15 at page 197.

RESOLUTION NO. 85-65 - RESOLUTION OF APPRECIATION TO FIREFIGHTER III HUBERT C. ROGERS

6. Consideration was given to a resolution of appreciation to Firefighter III Hubert C. Rogers.

Mayor McDevitt said Hubert C. Rogers has faithfully served the City of Asheville since 1958. Hubert C. Rogers retired effective April 1, 1985, and the City Council, by this resolution expresses its appreciation for his loyalty and dedication to the citizens of the City of Asheville.

Upon motion of Councilman Myers, seconded by Councilman Frank, Resolution 85-65 was unanimously adopted.

Mayor McDevitt presented a copy of the resolution to Hubert C. Rogers.

Complete text of Resolution No. 85-65 will be found in Resolution Book No. 15 at page 198.

RESOLUTION NO. 85-66 - RESOLUTION OF APPRECIATION TO FIREFIGHTER III JAMES C. MESSER

7. Consideration was given to a resolution of appreciation to Firefighter III James C. Messer.

Mayor McDevitt said James C. Messer has faithfully served the City of Asheville since 1960. James C. Messer retired effective March 1, 1985, and the City Council, by this resolution expresses its appreciation for his loyalty and dedication to the citizens of the City of Asheville.

Upon motion of Councilman Boland, seconded by Councilman Bissette, Resolution 85-66 was unanimously adopted.

Complete text of Resolution No. 85-66 will be found in Resolution Book No. 15 at page 199.

Mayor McDevitt referred the claims to the Corporation Counsel for investigation and recommendation.

Upon motion of Councilman Myers, seconded by Councilman Bissette, the meeting adjourned at 4:33 p.m.

MAYOR

CITY CLERK

RESOLUTION NO. 85-67 - RESOLUTION AUTHORIZING THE MAYOR TO SIGN ON BEHALF OF THE CITY OF ASHEVILLE AN AGREEMENT BY AND AMONG THE CITY OF ASHEVILLE, THE COUNTY OF BUNCOMBE, AND ASHEVILLE BUNCOMBE DEVELOPMENT CORPORATION

10. Consideration was given to a resolution authorizing the Mayor to sign on behalf of the City of Asheville an agreement by and among the City of Asheville, the County of Buncombe, and Asheville Buncombe Development Corporation.

Mayor McDevitt said the City of Asheville, together with the County of Buncombe, wish to provide professional and management services necessary to achieve a comprehensive private investment recovery in the downtown Asheville area. The Asheville-Buncombe Development Corporation has agreed to oversee efforts in this regard. The City and County wish to provide funding to the Asheville-Buncombe Development Corporation in furtherance of said purposes. The City and County desire to enter into an Agreement with Asheville-Buncombe Development Corporation in order to facilitate achievement of said goals. Funding for this activity - not to exceed $20,000/year - will be provided for in the City's annual budget process and will come from non-advalorem sources.

Mayor McDevitt said the Development Corporation, a non-profit organization consisting of private citizens and elected officials, would receive up to $20,000 per year for three years to pay management and consultant services provided by the developer, Owen Kugel.

Mayor McDevitt said Mr. Kugel will attempt to attract $5,000,000 in private investment in the downtown area in the next 12 months. He said if construction on some or all of those projects is not begun within that period, Mr. Kugel will refund any money paid to him by the Development Corporation.

Mayor McDevitt said the City or the Corporation can stop payment to Mr. Kugel and cancel the agreement at any time with 30 days notice.

Mayor McDevitt said Vice Mayor Bratton is serving as Vice Chairman of the Asheville-Buncombe Development Corporation.

Upon motion of Councilman Boland, seconded by Councilman Frank, Resolution No. 85-67 was unanimously adopted.

Upon inquiry of Ralph Bishop relative to whether or not the agreement provides for acquiring property under eminent domain and the ownership of the Asheville-Buncombe Development Corporation, Mayor McDevitt said the Corporation is a non-profit corporation sponsored by the City and other agencies. He said property to be developed under the agreement will be property that is acquired by the Corporation.

Complete text of Resolution No. 85-67 will be found in Resolution Book 15 at page 200.

CLAIMS - ROSE CINQUEMANI (SANITATION), LINDA GLASCO (STREETS), LUCRETIA MURPHY (STREETS)

The City Manager presented claims received from Rose Cinquemani, Linda Glasco, and Lucretia Murphy.

Mayor McDevitt noted that Council would be considering an ordinance prohibiting buildings and/or structures constructed with a vertical height in excess of 50 feet, deleting the portion of "three (3) stories".

Mayor McDevitt opened the public hearing at 4:07 p.m.

The City Clerk presented the notice to the public, setting the time and date of the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said the Asheville Planning and Zoning Commission had considered a recommendation regarding proposed structural heights in the R-1, R-2, and R-3 Residential Districts. He said after discussion, the Planning and Zoning Commission decided to take the R-3 Residential District requirement under advisement. He said a structure would be measured from the point of contact with land on flat surfaces and contact with the slope on sloped surfaces.

The following individuals said in indicating their support of the ordinance, they were not directing their opposition to any particular project, multi-family housing or high rise units. They said these standards are needed in the City of Asheville for orderly growth and protection of the natural beauty of the mountains. They said the 50 foot requirement would not be unreasonable.

Harvey Haywood - Chairman of the Local Citizens Group
David Long - 4 Patton Mountain Road
David Quinn - Resident of South Asheville
Gary Rowe, Attorney representing citizens of the Sunset Mountain Association
Harry Brummer - Sunset Summit
Mrs. Jasmine Getling - Sunset Mountain
Bill Mebane
Larry Chapman - Sunset Mountain

Mayor McDevitt closed the public hearing at 4:58 p.m.

Mayor McDevitt said members of Council were furnished copies of the ordinance and it would not be read in its entirety.

Councilman Price moved for the adoption of Ordinance No. 1514. This motion was seconded by Councilman Bissette.

A discussion was held by members of Council relative to amending the ordinance to prohibit a developer from receiving a variance on the height restriction from the Zoning Board of Adjustments. Council requested that staff look into the possibility of an amendment to the ordinance prohibiting the Board of Adjustments from granting variances before the second reading of the ordinance.

Several members of Council said they felt in the near future it would be necessary for Council to consider a "mountainside ordinance" which would also deal with density and slope restrictions.

Tuesday - May 7, 1985 - 4:00 p.m.

Regular Meeting

Present: Mayor Larry McDevitt, Presiding; Vice-Mayor Wilhelmina Bratton; Councilmen Mary Lloyd Frank, Norma T. Price, Gordon Myers, Walter R. Boland, and Louis Bissette; Corporation Counsel William F. Slawter; City Manager Neal Creighton; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: None

INVOCATION

The invocation was given by Councilman Walter Boland.

APPROVAL OF THE MINUTES - APRIL 30, 1985 MEETING

1. Approval of the minutes of the April 30, 1985 meeting.

Mayor McDevitt announced the approval of the minutes as submitted.

MOMENT OF SILENCE - IN MEMORY OF POLICE OFFICER WALTER WADDELL

Council held a moment of silence in memory of Police Officer Walter Waddell who passed away on Saturday, May 4, 1985. Officer Waddell was a police officer with the Asheville Police Department from 1952, serving as a patrolman until 1970, and from 1970 until the time of his death, he served as a Court Officer.

PUBLIC HEARING - WORDING AMENDMENT TO ZONING ORDINANCE - STRUCTURAL HEIGHTS IN THE R-1 and R-2 DISTRICTS.

ORDINANCE NO. 1514 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED (WORDING AMENDMENT - STRUCTURAL HEIGHTS IN R-1 and R-2 RESIDENTIAL DISTRICT)

2. A public hearing was held relative to amending Ordinance No. 322, known as "an ordinance providing for the zoning of the City of Asheville," as amended (wording amendment relative to proposed structural heights in the R-1 and R-2 district).

Mayor McDevitt said the Asheville Planning and Zoning Commission at a special meeting held April 10, 1985, considered a recommendation regarding proposed structural heights in the R-1, R-2, and R-3 Residential Districts. After discussion the Commission voted to recommend the following amendment to City Council: "Amend Section 30-5-2. R-1 Residential District, and Section 30-5-3. R-2 Residential District to provide for the following: A. Within the jurisdiction of this ordinance for the zoning districts specified, no building and/or structure may be constructed with a vertical height in excess of fifty (50) feet or three (3) stories. Exemptions: Governmental, quasi governmental or utility structures to include, but not be limited to, water towers/reservoirs, radio, telephone or television towers or equipment for the transmission of electricity or communications shall be exempt from the provisions contained herein."

Mayor McDevitt said this application is for planning, capital and operating assistance funds under Section 9 of the UMTA Act. Expenditures for this grant will be a match between Federal, State and City.

Federal	1,051,890
State	83,200
Local (City)	469,490
TOTAL	233,544

Mayor McDevitt opened the public hearing at 5:19 p.m.

The City Clerk presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Carl Ownbey with the Asheville Transit Authority said these funds would be used for capital needs, planning, and operation of the Asheville Transit Authority.

Mayor McDevitt closed the public hearing at 5:20 p.m.

Mayor McDevitt said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Frank, seconded by Councilman Myers, Resolution No. 85-69 was unanimously adopted.

Complete text of Resolution No. 85-69 will be found in Resolution Book No. 15 at page 203-204.

PUBLIC HEARING - SITE PLAN OF PROPOSED TWIN OAKS MOBILE HOME PARK - BINGHAM ROAD

5. A public hearing was held relative to a site plan of the proposed Twin Oaks Mobile Home Park to be located on Bingham Road.

Mayor McDevitt said the Asheville Planning and Zoning Commission at a meeting held April 3, 1985, reviewed the site plan of the proposed Twin Oaks Mobile Home Park to be located on Bingham Road. The plan was prepared by Ray Anders and Associates for Mr. Allen Moss, Developer, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of the site plan to City Council subject to a 6" water line being shown to serve the fire hydrants, and compliance with the Erosion Control Ordinance.

Mayor McDevitt opened the public hearing at 5:21 p.m.

The City Manager presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said this project would consist of 35 units. He said all water and sewer commitments are in place and the

On a roll call vote of 7-0, Ordinance No. 1514 passed on first reading.

PUBLIC HEARING - APPLICATION FOR URBAN MASS TRANSPORTATION FUNDS (SECTION 5)

RESOLUTION NO. 85-68 - RESOLUTION AUTHORIZING THE FILING OF AN APPLICATION WITH THE DEPARTMENT OF TRANSPORTATION, UNITED STATES OF AMERICA, FOR A GRANT UNDER THE URBAN MASS TRANSPORTATION ACT OF 1964, AS AMENDED

3. A public hearing was held relative to authorizing the filing of an application with the Department of Transportation, United States of America, for a grant under the Urban Mass Transportation Act of 1964, as amended.

Mayor McDevitt said this application is for additional operating assistance funds under Section 5 of the UMTA Act. Expenditures for this grant will be 50-50 match between Federal and City.

Federal	116,772
Local (City)	116,772
TOTAL	233,544

Mayor McDevitt opened the public hearing at 5:15 p.m.

The City Clerk presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Carl Ownbey with the Asheville Transit Authority said these funds would be used for operating assistance in carrying out the operation of the transit system in the City of Asheville.

Ralph Bishop spoke in opposition to the resolution, stating that applying for such funds would be building up the federal deficit.

Mayor McDevitt closed the public hearing at 5:17 p.m.

Mayor McDevitt said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Boland, seconded by Councilman Frank, Resolution No. 85-68 was unanimously adopted.

Complete text of Resolution No. 85-68 will be found in Resolution Book No. 15 at page 201-202.

PUBLIC HEARING - APPLICATION FOR UMTA FUNDS (SECTION 9)

RESOLUTION NO. 85-69 - RESOLUTION AUTHORIZING THE FILING OF AN APPLICATION WITH THE DEPARTMENT OF TRANSPORTATION, UNITED STATES OF AMERICA, FOR A GRANT UNDER THE URBAN MASS TRANSPORTATION ACT OF 1964, AS AMENDED

4. A public hearing was held relative to authorizing the filing of an application with the Department of Transportation, United States of America, for a grant under the Urban Mass Transportation Act of 1964, as amended. (Section 9 funds)

activities which will benefit low and moderate income persons or aid in the prevention or elimination of slum or blighted areas. At least 51% of the entitlement must be used for activities which benefit low and moderate income persons. Based on the Department of Housing and Urban Development projections, the City's Community Development Block Grant entitlement for 1985-86 will be $1,382.000.

Mayor McDevitt opened the public hearing at 5:38 p.m.

The City Clerk presented the notice to the public, setting the date and time for the public hearing and the affidavit of publication.

Mayor McDevitt said Council would be taking no action at today's meeting, but would only be receiving public comments relative to the proposed use of funds. He said Council would be considering action on the budget and submission of the application at the May 14, 1985 meeting.

Logan Delany, Director of Community Development, said the Department of Housing and Urban Development guidelines require that Council hold a public hearing each year on the proposed use of community development funds. He said the Community Development staff had projected a budget which included carrying over several projects and adding one new project to this year's budget. He said the budget had been reviewed by members of staff and representatives of the Department of Housing and Urban Development. He said the budget appears to meet all guidelines set forth by the Department of Housing and Urban Development. He said the new project included in the budget will be for development and implementation of a comprehensive plan for the south end of the Montford community.

Barry Masters, Executive Director of the Pisgah Legal Services, said he represented low income and elderly residents in the Montford area. He said they had been retained to seek assistance from the City for housing rehabilitation for the low and moderate income residents in the Montford area. He cited several provisions of the Housing and Urban Development Act requiring that the use of Community Development funds be used for the improvement of housing for the low and moderate income, minimizing displacement of the residents, and the need to coordinate housing needs assuring compliance with the local housing code. He requested increased Community Development funding for rehabilitation, weatherization, and other assistance to substandard houses in the City of Asheville. He said the national goal for the Community Development Program is primarily for the low and moderate income residents, indicating that not less than 51% of the Community Development funds must be for the benefit of the low and moderate income residents. He said he felt there is a need to improve the efforts of the City Inspections Division, increasing the number of inspectors, to assure decent housing in the City of Asheville.

Daphne Hooker, with the Montford Community Club supported the funding allocated for the comprehensive plan for the south end of Montford Avenue.

Scott Dedman, Community Education Coordinator with the Pisgah Legal Services, said at least $1 Million Dollars a year is needed to ease the "severe housing rehabilitation needs" in the City, and asked that housing rehabilitation be made the City's top priority for Community Development funding.

requirement of the Planning and Zoning Commission that a 6" water line be installed to serve the fire hydrants had been completed. By the use of a map, Mr. Emrick reviewed the location of the property in question.

Mayor McDevitt closed the public hearing at 5:29 p.m.

Councilman Price moved to approve the site plan of the proposed Twin Oaks Mobile Home Park to be located on Bingham Road, subject to the recommendations of the Planning and Zoning Commission, and further that the developer plant a row of trees along the southern boundary of the property. This motion was seconded by Councilman Bissette and carried unanimously.

PUBLIC HEARING - EXPANSION OF BEAUCATCHER CINEMAS - HAW CREEK LANE

6. A public hearing was held relative to the site plan of the proposed expansion of the Beaucatcher Cinemas located on Haw Creek Lane.

Mayor McDevitt said the Asheville Planning and Zoning Commission at a meeting held April 3, 1985, reviewed the site plan of the proposed expansion of the Beaucatcher Cinemas located on Haw Creek Lane. The plan was prepared by Hiller and Hiller, Architects, Greenville, S. C., for The Litchfield Company, Developer, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of the site plan to City Council subject to compliance with the Erosion Control Ordinance.

Mayor McDevitt opened the public hearing at 5:32 p.m.

The City Clerk presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said this expansion would include two new movie screens to be added to the existing building, as well as a drive-by pickup store. He said there would be no changes in access to the building. He said all parking requirements are being met.

Mayor McDevitt closed the public hearing at 5:35 p.m.

Councilman Frank moved to approve the site plan of the proposed expansion of the Beaucatcher Cinemas located on Haw Creek Lane subject to the recommendation of the Planning and Zoning Commission. This motion was seconded by Councilman Bissette and carried unanimously.

PUBLIC HEARING - PROPOSED STATEMENT OF COMMUNITY DEVELOPMENT OBJECTIVES AND PROJECTED USE OF FUNDS - 7/1/85 THROUGH 6/30/86

7. A public hearing was held to receive comments on the Proposed Statement of Community Development Objectives and Projected Use of Funds for July 1, 1985 through June 30, 1986.

Mayor McDevitt said during the fiscal year beginning July 1, 1985, the City of Asheville anticipates receiving $1,382,000 from the U. S. Department of Housing and Urban Development through the Community Development Block Grant, Entitlement Program. Use of the funds is restricted to

to evaluate all bids received for this service. The committee has determined that it is in the best interests of the City to recommend that Mr. D's Cleaning Service be awarded the bid. He said it will save $5,000-$7,000 per year.

Mayor McDevitt said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Ray Kisiah, Director of Parks, Recreation and Public Facilities, said the staff and Council Committee is recommending the award to Mr. D's Cleaning Service, being the low bidder meeting all specifications.

Gordon Farmer, owner of Mr. D's Cleaning Service answered questions from members of Council relative to his business.

Mayor McDevitt said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Upon inquiry of Mayor McDevitt, Corporation Counsel Slawter said in his opinion Mayor McDevitt would have a conflict of interest in voting on the resolution due to his law firm representing Mr. D's Cleaning Service.

Mayor McDevitt requested that he be excused from participation and voting on this resolution.

Vice-Mayor Bratton moved to excuse Mayor McDevitt from voting on the resolution relative to authorizing an agreement with Mr. D's Cleaning Service. This motion was seconded by Councilman Bissette and carried unanimously.

Upon inquiry of Councilman Bissette, Corporation Counsel Slawter said Councilman Bissette would have a conflict of interest in voting on the resolution because of his law firm representing Mr. D's Cleaning Service.

Councilman Bissette requested that he be excused from participation and voting on the resolution.

Vice-Mayor Bratton moved to excuse Councilman Bissette from voting on the resolution relative to the agreement with Mr. D's Cleaning Service. This motion was seconded by Councilman Myers and carried unanimously.

Councilman Frank moved for the adoption of Resolution No. 85-70. This motion was seconded by Councilman Boland.

Vice-Mayor Bratton said it would be her intent to make a substitute motion to award the contract to Lonnie Gillium, and if that failed, awarding the contract to Mr. Wilson's Cleaning Service. She said she felt area corporations and public institutions have an obligation to award contracts to women/owned and minority businesses when possible.

Councilman Frank said she had met with a committee of Council, along with the City Manager and the Department of Parks, Recreation and Public Facilities and would recommend the award to Mr. D's Cleaning Service.

On a voice vote of 4-1, Resolution No. 85-70 was adopted with Vice-Mayor Bratton voting "no". Councilman Price voting "Aye" in view of an unexcused absence from the meeting.

He said expanded efforts for housing rehabilitation in the Montford area is needed. He showed slides to members of Council indicating the need for such assistance.

Councilman Price left the Council meeting at 6:00 p.m. unexcused.

Sean Devereaux, an attorney in private practice, formally with Pisgah Legal Services, spoke relative to the effectiveness of code enforcement in the City of Asheville. He said prior to the cut back in personnel in the Division of Inspections, the City of Asheville had a strong Housing Code. He said small amounts of money used for weatherization could save thousands of dollars in energy costs for low income residents.

Mayor McDevitt closed the public hearing at 6:13 p.m.

ORDINANCE NO. 1512 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED. - PROPERTY LOCATED ON 800 FAIRVIEW ROAD (BOB HUGHES AND ASSOCIATES PETITION)

8. Consideration was given to Ordinance No. 1512, an ordinance amending Ordinance No. 322, known as "an ordinance providing for the zoning of the City of Asheville," as amended - property located at 800 Fairview Road (River Ridge Market Place)

Mayor McDevitt said the Asheville Planning and Zoning Commission at a meeting held March 13, 1985, considered the request of Bob Hughes and Associates that Ward 7, Sheet 51, Lot 1, be rezoned from LI Light Indistrial District to CH Commercial Highway District. The property is located at 800 Fairview Road (River Ridge Market Place). After review and discussion, the Commission voted to recommend to City Council that Ward 7, Sheet 51, Lot 1, be rezoned from LI Light Industrial District to CH Commercial Highway District. This ordinance passed on first reading April 23 and on second reading April 30, 1985.

Mayor McDevitt said this ordinance was previously read on first and second reading and would not be reread in its entirety unless there was a specific request to do so.

On a roll call vote of 7-0, Ordinance No. 1512 passed on third and final reading, with Councilman Price voting "Aye" due to an unexcused absence.

Complete text of Ordinance No. 1512 will be found in Ordinance Book No. 10 at page 262-263.

RESOLUTION NO. 85-70 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH MR. D'S CLEANING SERVICE FOR PROFESSIONAL JANITORIAL SERVICE FOR THE CITY HALL BUILDING

9. Consideration was given to a resolution authorizing the City Manager to enter into an agreement with Mr. D's cleaning service for professional janitorial service for the City Hall Building.

Mayor McDevitt said the City of Asheville has determined that it would be beneficial to contract for the janitorial service for the City Hall building rather than to provide the service itself. A committee was formed

D. Consideration of a motion scheduling a public hearing relative to rezoning property located at the northwest corner of Charlotte and Chestnut Streets (requested by W. Neal Hanks, Agent) for May 28, 1985.

HIGHLIGHTS: The Asheville Planning and Zoning Commission at a meeting held on April 17, 1985, considered the petition of Mr. W. Neal Hanks, Agent, that Ward 2, Sheet 26, portion of Lot 124, be rezoned from R-4 Residential District to CG Commercial General District. The property is located at the northwest corner of Charlotte and Chestnut Streets.

E. Consideration of a motion scheduling a public hearing relative to the site plan of the proposed addition of a Health Club and Tennis Center to the Grove Park Inn for May 28, 1985.

HIGHLIGHTS: The Asheville Planning and Zoning Commission at a meeting held on April 17, 1985, reviewed the site plan of the proposed addition to a Health Club and Tennis Center to the Grove Park Inn located on Macon Avenue. The plan was prepared by Mayse and Associates, Architects, Dallas, Texas, for Grove Park Inn, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of the site plan to City Council, subject to provision of appropriate buffering and compliance with the Erosion Control Ordinance.

F. Consideration of a motion scheduling a public hearing relative to the site plan of the proposed "Sunset Pointe Condominiums" to be located on Town Mountain Road for June 4, 1985.

HIGHLIGHTS: The Asheville Planning and Zoning Commission at a meeting held on April 17, 1985, reviewed the site plan of the proposed "Sunset Pointe Condominiums" to be located on Town Mountain Road. The plan was prepared by Freeman, Weels and Major, Architects, for W. R. Martin, Developer, both of Greenville, S. C. and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend denial of the site plan to City Council.

G. Consideration of a motion to schedule a public hearing relative to Revision of Rule 4 and 29 of the Civil Service Rules and Regulations for May 21, 1985.

Upon inquiry of Mayor McDevitt, Mr. Kisiah said funds are appropriated in the Parks, Recreation and Public Facilities departmental budget for the cleaning service.

Resolution Book 15, Page 205.

APPROVAL OF THE CONSENT AGENDA

10. Consideration was given to a motion approving the consent agenda.

Mayor McDevitt said the following items are of a routine nature and they have been previously reviewed by the members of the City Council. Therefore, by unanimous vote to approve these items, the City Council may, pursuant to the procedures established in Ordinance No. 1008, adopt all of the items with one motion without the full reading and/or separate motion adopting each individual item. Upon the request of a citizen, a member of the City Council, and/or a member of the City staff, any single item scheduled for approval on the consent agenda may be considered separately.

A. Resolution No. 85-71 - Consideration of a resolution appointing member to the Asheville Area Civic Center Commission.

HIGHLIGHTS: Due to the resignation of Mrs. Carolyn Thompson, a vacancy now exists on the Asheville Area Civic Center Commission. This resolution will appoint Mr. O. E. Starnes, III as a member to the Asheville Area Civic Center Commission to fill the unexpired term of Carolyn Thompson, term expiring June 30, 1987.

Resolution Book No. 15 at Page 206.

B. Resolution No. 85-72 - Consideration of a resolution appointing member to the Metropolitan Sewerage District Board.

HIGHLIGHTS: The term of office of Mrs. Diane Sciara expired on January 19, 1985. This resolution will appoint Mr. E. Charles Dyson as a member of the Metropolitan Sewerage District Board for a three (3) year term, term expiring January 19, 1988.

Resolution Book No. 15 at Page 207.

C. Resolution No. 85-73 - Consideration of a resolution appointing member to the Board of Trustees of the Firemen's Relief Fund.

HIGHLIGHTS: The term of Webb E. Ellis expired on January 1, 1985. This resolution will reappoint Mr. Ellis to the Board of Trustees of the Firemen's Relief Center for a two (2) year term, term expiring January 1, 1987.

Resolution Book No. 15 at Page 208.

Upon motion of Councilman Frank, seconded by Councilman Bissette, the Consent Agenda was unanimously approved.

RESCHEDULING PUBLIC HEARING - SWEET CREEK OFFICE PARK - SWEETEN CREEK ROAD

Councilman Boland moved to reschedule a public hearing relative to the site plan of the proposed Sweet Creek Office Park to be located on Sweeten Creek Road for May 21, 1985. This motion was seconded by Councilman Bissette and carried unanimously.

CLAIMS - NEAL GALLOWAY (SANITATION) - STELLA JENKINS (WATER) - JAMES CANNON (WATER)

The City Manager presented claims received from Neal Galloway, Stella Jenkins, and James Cannon.

Mayor McDevitt referred the claims to the Corporation Counsel for investigation and recommendation.

LAWSUITS - LAWRENCE JAKE McCLAIN VS. CITY OF ASHEVILLE - (APPEAL FROM CIVIL SERVICE BOARD) LESTIE SHERLIN VS. THE CITY OF ASHEVILLE (BODILY INJURY AND PROPERTY DAMAGE - ICE ON STREET FROM WATER LINE BREAK)

The City Manager said the City was served with summonses in connection with lawsuits involving Lawrence Jake McClain and Lestie Sherlin. Mayor McDevitt referred the summonses to the Corporation Counsel for investigation and recommendation.

ADJOURNMENT

Vice-Mayor Bratton moved to adjourn the meeting at 6:55 p.m. His motion was seconded by Councilman Frank and carried unanimously.

Gary McDevitt
MAYOR

William F. Valentine
CITY CLERK

HIGHLIGHTS: This public hearing is being scheduled to allow employees, who are members of the Classified Service of the City of Asheville, an opportunity to provide input and recommendations concerning revisions of Rule 4 and 29 of the Civil Service Rules and Regulations. Proposed revisions are being made in order to comply with the provisions of the ADEA (Age Discrimination Employee Act).

H. Consideration of a motion to schedule a public hearing relative to a site plan of the proposed Shawnee Trail Apartments to be located on Shawnee Trail for May 28, 1985.

HIGHLIGHTS: The Asheville Planning and Zoning Commission at a meeting held April 3, 1985, reviewed the site plan of the proposed Shawnee Trail Apartments to be located on Shawnee Trail. The site plan was prepared by John Reid, Architect, for Mr. George Morosani, Developer, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of the site plan to City Council subject to the following conditions: 1) Receipt of a letter from NCDOT indicating that they will accept the storm drainage at the southwest corner of the property; 2) Submission of an engineering study indicating the stability of the site. 3) Buffering; and 4) Compliance with Erosion Control Ordinance.

I. Consideration of a motion scheduling a public hearing to receive a comprehensive planning study report relative to the Haw Creek Area, and extending the present moratorium in said area for May 21, 1985.

HIGHLIGHTS: On February 26, 1985 Council adopted Ordinance No. 1498 imposing a moratorium on property in the Haw Creek area for the issuance of any zoning or building permits and consideration of any request for group development review by the Planning and Zoning Commission through May 28, 1985. At this public hearing Council will receive a report from the Planning and Zoning Department resulting from a comprehensive planning study of the area. Public comments with regard to said comprehensive planning study will also be received and the City Council will consider what action, if any, to take as a result of the comprehensive planning study, including the possibility of an extension of said moratorium.

Upon motion of Councilman Price, seconded by Councilman Boland, Resolution No. 85-74 was unanimously adopted.

Complete text of Resolution No. 85-74 will be found in Resolution Book No. 15 at page 209.

PUBLIC HEARING - REZONING PROPERTY LOCATED AT 31 GRANBY STREET AND 18 ARDEN ROAD

ORDINANCE NO. 1515 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED - PROPERTY LOCATED ON GRANBY STREET AND ARDEN ROAD (JOHN NILSSON PETITION)

4. A public hearing was held relative to rezoning property located at 31 Granby Street and 18 Arden Road.

Vice-Mayor Bratton opened the public hearing at 4:10 p.m.

Vice-Mayor Bratton said the Asheville Planning and Zoning Commission at a meeting held April 3, 1985, considered the request of Mr. John Nilsson, Agent for Asheville Hand Center, that Ward 1, Sheet 8, Lots 141 and 143 be rezoned from R-2 Residential District to OI Office Institutional District. The property is located at 31 Granby Street and 18 Arden Road. After review and discussion, the Commission voted to recommend to City Council that Ward 1, Sheet 8, Lot 141 and a portion of Lot 143, be rezoned from R-2 Residential District to OI Office Institutional District, leaving a 30' R-2 Residential District buffer along Granby Street and Arden Road.

The City Clerk presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said the proposed rezoning is requested for an expansion of an existing building and for parking for the Asheville Hand Center.

Upon inquiry of Councilman Bissette, Mr. Emrick said there were no objections expressed at the Planning and Zoning Commission.

Vice-Mayor Bratton closed the public hearing at 4:12 p.m.

Vice-Mayor Bratton said members of Council were furnished copies of the ordinance and it would not be read in its entirety.

Councilman Frank moved for the adoption of Ordinance No. 1515. This motion was seconded by Councilman Myers.

On a roll call vote of 6-0, Ordinance No. 1515 passed on first reading.

PUBLIC HEARING - REZONING PROPERTY LOCATED BEHIND PEARLMAN'S ON TUNNEL ROAD

Tuesday - May 14, 1985 - 4:00 p.m.

Regular Meeting

Present: Vice-Mayor Wilhelmina Bratton; Councilmen Mary Lloyd Frank, Norma T. Price, Gordon Myers, Walter R. Boland, and Louis Bissette; Corporation Counsel William F. Slawter; City Manager Neal Creighton; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Mayor Larry McDevitt (Mayor McDevitt expected later during the meeting).

INVOCATION

The invocation was given by Councilman Louis Bissette.

APPROVAL OF THE MINUTES - MAY 7, 1985 MEETING

1. Approval of the minutes of the May 7, 1985 meeting.

Vice-Mayor Bratton announced the approval of the minutes as submitted.

PROCLAMATION - "AMERICAN BUSINESS WOMEN'S WEEK"

Vice-Mayor Bratton read a proclamation proclaiming May 12-19, 1985, as "American Business Women's Week."

Vice-Mayor Bratton presented the proclamation to Beverly Brooks.

PUBLIC HEARING - CLOSING A PORTION OF OLD MOUNTAIN STREET AND OLD PINE STREET

RESOLUTION NO. 85-74 - RESOLUTION TO CLOSE A PORTION OF OLD MOUNTAIN STREET AND OLD PINE STREET IN THE CITY OF ASHEVILLE, NORTH CAROLINA

3. A public hearing was held relative to closing a portion of Old Mountain Street and Old Pine Street.

Vice-Mayor Bratton opened the public hearing at 4:06 p.m.

Vice-Mayor Bratton said a petition has been filed by the Housing Authority of the City of Asheville, asking that a portion of Old Mountain Street and Old Pine Street be permanently closed to public use. These streets are under the authority and control of the City and are not under the authority of the N.C. Department of Transportation.

The City Clerk presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

There being no comments relative to the closing of these streets, Vice-Mayor Bratton closed the public hearing at 4:08 p.m.

Vice-Mayor Bratton said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Verl Emrick, Director of Planning, said the reason for the requested rezoning is to construct a single-family residence.

Vice-Mayor Bratton closed the public hearing at 4:24 p.m.

Vice-Mayor Bratton said members of Council were furnished copies of the ordinance and it would not be read in its entirety.

Councilman Boland moved for the adoption of Ordinance No. 1517. This motion was seconded by Councilman Myers.

On a roll call vote of 7-0, Ordinance No. 1517 passed on first reading.

ORDINANCE NO. 1514 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED. (WORDING AMENDMENT - STRUCTURAL HEIGHTS IN R-1 AND R-2 RESIDENTIAL DISTRICTS

7. Consideration was given to the second reading of Ordinance No. 1514, an ordinance amending Ordinance No. 322, known as "An ordinance providing for the zoning of the City of Asheville," as amended. (Wording amendment relative to proposed structural heights in the R-1 and R-2 Districts.

Mayor McDevitt said the Asheville Planning and Zoning Commission at a special meeting held April 10, 1985, considered a recommendation regarding proposed structural heights in the R-1, R-2, and R-3 Residential Districts. After discussion the Commission voted to recommend the following amendment to City Council: "Amend Section 30-5-2. R-1 Residential District, and Section 30-5-3. R-2 Residential District to provide for the following: A. Within the jurisdiction of this ordinance for the zoning districts specified, no building and/or structure may be constructed with a vertical height in excess of fifty (50) feet or three (3) stories. Exemptions: Governmental, quasi governmental or utility structures to include, but not be limited to, water towers/ reservoirs, radio, telephone or television towers or equipment for the transmission of electricity or communications shall be exempt from the provisions contained herein." This ordinance was read on first reading on May 7, 1985.

Mayor McDevitt said this ordianance was previously read on first reading and would not be reread in its entirety unless there was a specific request to so so.

Upon inquiry of Council, Verl Emrick, Director of Planning, said it would be illegal to prohibit the City's Board of Adjustment from granting any variance to developers who want to increase the height of their buildings.

Councilman Price moved to amend Ordinance No. 1514 to change the height restriction from 50 feet to 40 feet. This motion was seconded by Vice-Mayor Bratton and carried unanimously.

Gary Rowe and Brainard Rorison spoke in support of the ordinance.

On a roll call vote of 7-0, Ordinance No. 1514, as amended, passed on second reading.

ORDINANCE NO. 1516 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED - PROPERTY LOCATED ON TUNNEL ROAD (STEVE RUSSELL, NCNB, AND M.M. PEARLMAN)

5. A public hearing was held relative to rezoning property located behind Pearlman's on Tunnel Road.

Vice-Mayor Bratton opened the public hearing at 4:15 p.m.

Vice-Mayor Bratton said the Asheville Planning and Zoning Commission at a meeting held April 3, 1985, considered the request of Mr. Steve Russell, Trust Officer NCNB, for Julian Long Estate, and Mr. M. M. Pearlman that Ward 8, Sheet 11, Lots 50 and 51, be rezoned from R-3 Residential District to CH Commercial Highway District. The property is located behind Pearlman's on Tunnel Road. After review and discussion, the Commission voted to recommend to City Council that Ward 8, Sheet 11, Lots 50 and 51, be rezoned from R-3 Residential District to CH Commercial Highway District.

The City Clerk presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said this rezoning is requested to provide an access to the property. He said the property had been landlocked by the State highway improvements in that area.

Vice-Mayor Bratton closed the public hearing at 4:20 p.m.

Vice-Mayor Bratton said members of Council were furnished copies of the ordinance and it would not be read in its entirety.

Councilman Bissette moved for the adoption of Ordinance No. 1515. This motion was seconded by Councilman Frank.

On a roll call vote of 6-0, Ordinance No. 1516 passed on first reading.

PUBLIC HEARING - REZONING PROPERTY LOCATED AT 941 FAIRVIEW ROAD

ORDINANCE NO. 1517 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED - PROPERTY LOCATED AT 941 FAIRVIEW ROAD (JAMES SCHUMACHER PETITION)

6. A public hearing was held relative to rezoning property located at 941 Fairview Road.

Mayor McDevitt took his seat at 4:22 p.m.

Vice-Mayor Bratton opened the public hearing at 4:22 p.m.

Vice-Mayor Bratton said the Asheville Planning and Zoning Commission at a meeting held April 3, 1985, considered the request of Mr. James Schumacher that Ward 7, Sheet 27, Lot 42, be rezoned from LI Light Industrial District to R-3 Residential District. The property is located at 941 Fairview Road. After review and discussion, the Commission voted to recommend to City Council that Ward 7, Sheet 27, Lot 42, be rezoned from LI Light Industrial District to R-3 Residential District.

John Stevens, Attorney representing the R. L. Coleman Company, said the developer had made as many concessions as possible and that he plans to continue negotiation with the community even after the rezoning. He said Council should take into consideration that the rezoning they are considering today is just the rezoning and some of the issues are issues that will come before Council when the site plan is considered for approval. He said the developer would continue to work with the residents but the developer needs to get on with the rezoning. Mr. Stevens outlined the essentials of the agreement proposed between the Kenilworth Forest Residents and the developer. He said all the concessions made by the developer were contingent upon the Kenilworth Forest Association releasing deed restrictions on certain lots in the area.

Upon inquiry of Councilman Price, Verl Emrick said grading or expansion of parking in the area will not require the approval of the site plan.

Upon inquiry of Mr. Payne, Mayor McDevitt said the present Council has not taken a position on the action taken by Council in 1970 when the approval of the original site plan was given.

After discussion, on a roll call vote of 7-0, Ordinance No. 1504, as amended, passed on third and final reading.

Complete text of Ordinance No. 1504 will be found in Ordinance Book No. 10 at page 254-255.

ORDINANCE NO. 1518 - BUDGET ORDINANCE AMENDMENT FOR COMPLETION OF DEPOT STREET IMPLEMENTATION PROJECT

9. Consideration was given to a budget ordinance amendment for completion of the Depot Street Implementation project.

Mayor McDevitt said this will complete the Depot Street Plan Implementation project. Twelve hundred dollars is available for completion of this project in the Community Development Tenth (10th) Year Contingency.

Mayor McDevitt said members of Council were furnished copies of the ordinance and it would not be read in its entirety.

Vice-Mayor Bratton moved for the adoption of Ordinance No. 1518. This motion was seconded by Councilman Price.

On a roll call vote of 7-0, Ordinance No. 1518 passed on first and final reading.

Complete text of Ordinance No. 1518 will be found in Ordinance Book No. 10 at page 274.

RESOLUTION NO. 85-75 - RESOLUTION AUTHORIZING SUBMISSION OF A FINAL STATEMENT OF COMMUNITY DEVELOPMENT OBJECTIVES AND PROJECTED USE OF FUNDS TO THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT FOR COMMUNITY DEVELOPMENT BLOCK GRANT ENTITLEMENT FUNDS - 1985-86

10. Consideration was given to a resolution authorizing submission of a final statement of Community Development objectives and projected use of funds to the Department of Housing and Urban Development for Community Development Block Grant Entitlement Funds - 1985-86.

ORDINANCE NO. 1504 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED - PROPERTY LOCATED ON PERIMETER OF ASHEVILLE MALL (R.L. COLEMAN, JR. PETITION)

8. Consideration was given to the third reading of Ordinance No. 1504, an ordinance amending Ordinance No. 322, known as "An ordinance providing for the zoning of the City of Asheville," as amended - property located on perimeter of Asheville Mall (R. L. Coleman, Jr. Petition).

Mayor McDevitt said the Asheville Planning and Zoning Commission reviewed the request at its regular meeting of February 6, 1985, and delayed action requesting the R. L. Coleman Company and the Kenilworth Forest Association to meet to attempt to reach some compromise on several issues which were producing an impass and report to the Commission on February 27, 1985. At the February 27, 1985, meeting, the Commission voted to approve a portion of the rezoning request. In addition, the Commission voted to provide additional R-3 buffers to assist in protecting the White Pine Drive areas. This ordinance passed on first reading on March 26, 1985, and on second reading on April 2, 1985.

After discussion, Councilman Price moved to amend Ordinance No. 1504 to include "excepting also that portion of Lot 57 described as follows, said portion to also remain zoned R-3 Residential District; 'Beginning at the northeastern corner of Lot 1 as shown on a plat recorded in Plat Book 24 at Page 9 at the Buncombe County Registry; at 71°, 33 minutes, 40.64 feet; south 10° east, 138.02 feet; thence north 26°, 56 minutes west, 138.0 feet to the place of Beginning.' For purposes of further clarification, Lot 57 is that lot lying immediately east of Lot 93, Ward 8, Sheet 10, along the southern margin of White Pine Drive." This motion was seconded by Councilman Frank and carried unanimously.

It was noted that the above amendment would give Mr. Mosely protection from the Mall. Gerald Gentry, representative of the Kenilworth Forest Association, told members of Council that the residents will not have adequate protection against further commercial encroachment on the property and asked that the rezoning be denied for the benefit of the community as a whole. He said he did not think the rezoning is in the best interest of the community. He said the residents of the Kenilworth Forest Association and the developer, R. L. Coleman, had failed to reach a compromise on the rezoning issue.

Harold Payne, Co-President of the Kenilworth Forest Association told members of Council there are problems stemming from construction of the existing Mall that have not been addressed and that those issues should be settled before expansion is considered. He presented minutes of the Asheville City Council meeting of July 9, 1970, when the Asheville Mall site plan was approved, indicating that the developer had not complied with the stipulations on the approval of the original Mall.

Margaret Curtis, 33 White Pine Drive, spoke in opposition to the rezoning.

Mayor McDevitt said N.C.G.S. Section 160A-270 provides for the sale of surplus personal property at public auction. The Motor Transport Superintendent has declared thirty-two motor vehicles as surplus property. This resolution will authorize the Purchasing Director to dispose of these vehicles by public auction. The sale to take place at the new vehicle maintenance facility, South Charlotte Street, beginning at 10:00 a.m. on Saturday, the 1st day of June, 1985. Sale of surplus vehicles will generate expected revenue of $20,000.

Mayor McDevitt said members of Council were furnished copies of the resolution and it would not be read in its entirety unless there was a specific request to do so.

Upon motion of Councilman Price, seconded by Councilman Bissette, Resolution No. 85-76 was unanimously adopted.

Complete text of Resolution No. 85-76 will be found in Resolution Book No. 15 at page 211.

RESOLUTION NO. 85-77 - RESOLUTION AUTHORIZING THE PURCHASING DIRECTOR TO DISPOSE OF CERTAIN PERSONAL PROPERTY VALUED AT LESS THAN $5,000 BY PRIVATE NEGOTIATION AND SALE (DATA GENERAL COMPUTERS, ETC.)

13. Consideration was given to a resolution authorizing the Purchasing Director to dispose of certain personal property (Data General Computers, etc.).

Mayor McDevitt said N. C. Gen. Stat. Section 160A-266 provides that a municipality may dispose of personal property valued at less than $5,000 for any one item or group of similar items by private negotiation and sale. The Department of Finance, Data Processing Division, has accumulated assorted obsolete computer equipment composed of two (2) Data General Computers and other assorted peripheral equipment and has declared such property to be nonuseable surplus personal property. The specific requirements for private negotiation and sale are set forth at N. C. Gen. Stat. Section 160A-267. This action will have a net positive effect on this year's revenues of from $200.00 to $500.00. This additional revenue has not been included in this year's budget.

Mayor McDevitt said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Frank, seconded by Councilman Boland, Resolution No. 85-77 was unanimously adopted.

Complete text of Resolution No. 85-77 will be found in Resolution Book No. 15 at page 212.

RESOLUTION NO. 85-78 - RESOLUTION TO NORTH CAROLINA BOARD OF TRANSPORTATION (I-240 EASTBOUND OFF-RAMP INTO US 70)

14. Consideration was given to a resolution to the North Carolina Board of Transportation relative to the completion and extension of the I-240 eastbound off-ramp into US 70.

Mayor McDevitt said this resolution will authorize the Mayor to execute and file an application with the Department of Housing and Urban Development for Eleventh Year Entitlement Community Development Block Grant Funds for 1985-86. A public hearing was conducted in the City Council Chambers, City Hall Building, Asheville, North Carolina on May 7, 1985, to obtain citizen views on the goals, objectives and needs of the Community Development Block Grant Program for 1985-86. Based on the Department of Housing and Urban Development projections the City's Community Development Block Grant entitlement for 1985-86 will be $1,382.000.

Logan Delany, Director of Community Development, said a proposed budget had been submitted relative to the entitlement funds for 1985-86.

Upon inquiry of Scott Dedman, with the Pisgah Legal Services, Mr. Delany said support for housing rehabilitation in the City of Asheville had been included in the proposed budget.

Upon inquiry of Councilman Boland, Mr. Delany said in prior years Community Development Funds have been used as "matching funds for housing assistance" for housing rehabilitation.

Mayor McDevitt said members of Council were furnished copies of the resolution and the proposed budget, and it would not be read in its entirety unless there was a specific request to do so.

Vice-Mayor Bratton moved for the adoption of Resolution No. 85-75 with a provision that the word "administrative" be deleted from item 4 on the proposed budget. This motion was seconded by Councilman Price and carried unanimously.

Complete text of Resolution No. 85-75 will be found in Resolution Book No. 15 at page 210.

APPROVAL OF SIGN PERMIT - 562 RIVERSIDE DRIVE

11. Consideration was given to a motion approving a sign permit to erect an off-premises advertising sign at 562 Riverside Drive.

Mayor McDevitt said H & M Outdoor Advertising Company has requested approval of a sign permit to erect an off-premises advertising sign at 562 Riverside Drive. Total square footage of the sign will be 349 square feet. Pursuant to the Zoning Ordinance this sign permit requires the approval of Council since it will be situated within 600 feet of a limited access highway.

Verl Emrick, Director of Planning, said the property is zoned Heavy Industrial and the sign meets all requirements of the Sign Ordinance.

On a voice vote of 4-3, approval of the sign permit failed with Councilman Bissette, Vice-Mayor Bratton, and Councilman Myers voting "aye" and Councilman Boland, Councilman Price, Councilman Frank, and Mayor McDevitt voting "no."

RESOLUTION NO. 85-76 - RESOLUTION AUTHORIZING THE PURCHASING DIRECTOR TO SELL SURPLUS MOTOR VEHICLES AT PUBLIC AUCTION

12. Consideration was given to a resolution authorizing the Purchasing Director to sell surplus motor vehicles at public auction.

CLAIMS - JOHN COCHRAN (SEWER) - BONNIE REECE (SENIOR OPPORTUNITY CENTER)

The City Manager presented the claims received from John Cochran and Bonnie Reece.

Mayor McDevitt referred the claims to the Corporation Counsel for investigation and recommendation.

LAWSUITS - JANE N. GATEWOOD AND HAW CREEK COMMUNITY ASSOCIATION VS BOARD OF ADJUSTMENTS (APPEAL FROM BOARD OF ADJUSTMENT DECISION)

The City Manager said the City was served with a summons in connection with a lawsuit involving Jane N. Gatewood and Haw Creek Community Association vs the Board of Adjustment involving an appeal from the Board of Adjustment decision.

Mayor McDevitt referred the summons to the Corporation Counsel for investigation and recommendation.

REQUEST FROM R. P. CLOWER - FIRE HYDRANT

Mr. Clower appeared before Council requesting an adjustment in a fire hydrant location on Cisco Road due to the installation of a six-inch water line.

After discussion, Council requested that the City Manager look into the situation and report back to Council.

ADJOURNMENT

Councilman Bissette moved to adjourn the meeting at 7:00 p.m. This motion was seconded by Vice-Mayor Bratton and carried unanimously.

Jay McDevitt
MAYOR

William B. Holcomb
CITY CLERK

Mayor McDevitt said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Vice-Mayor Bratton, seconded by Councilman Frank, Resolution No. 85-78 was unanimously adopted.

Complete text of Resolution No. 85-78 will be found in Resolution Book No. 15 at page 213.

SCHEDULING PUBLIC HEARING - REZONING PROPERTY ON NORTH BEAR CREEK ROAD

15. Consideration was given to a motion to schedule a public hearing to rezone property on North Bear Creek Road for June 4, 1985.

Mayor McDevitt said the Asheville Planning and Zoning Commission at a meeting held May 1, 1985, considered the petition of Mr. T. F. Dula that Ward 6, Sheet 20, Lot 69½ be rezoned from LI Light Industrial District to R-3 Residential District. The property is located on North Bear Creek Road. AFter review and discussion, the Commission voted to recommend to City Council that Ward 6, Sheet 20, Lot 69½, be rezoned from LI Light Industrial District to R-3 Residential District.

Councilman Boland moved to schedule a public hearing to rezone property on North Bear Creek Road for June 4, 1985. This motion was seconded by Councilman Price and carried unanimously.

SCHEDULING PUBLIC HEARING - SITE PLAN OF PROPOSED WOODBERRY APARTMENTS TO BE LOCATED OFF NEW CURVE STREET

16. Consideration was given to a motion to schedule a public hearing relative to a site plan of the proposed Woodberry Apartments to be located off New Curve Street from May 28, 1985.

Mayor McDevitt said the Asheville Planning and Zoning Commission at a metting held May 1, 1985, reviewed the stie plan of the proposed Woodberry Apartments to be located off New Curve Street. The site plan was prepared by Butler Assocaites, Engineers, for Poff Construction Company, Christiansburg, Virginia, Developer, and submitted in accordance with the Group Development Seciton of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of the site plan to City Council subject to compliance with the Erosion Control Ordinance.

Councilman Price moved to schedule the public hearing relative to the site plan for the proposed Woodberry Apartments to be located off New Curve Street for May 18, 1985. This motion was seconded by Councilman Bissette and carried unanimously.

CITY COUNCIL MEETING - MAY 21, 1985 - ASHEVILLE CIVIC CENTER - BANQUET ROOM

Councilman Bissette moved to schedule the City Council meeting for May 21, 1985, in the Asheville Civic Center Banquet Room. This motion was seconded by Councilman Frank and carried unanimously.

ORDINANCE NO. 1519 - AN ORDINANCE IMPOSING A LIMITED MORATORIUM IN THE HAW CREEK AREA

2. A public hearing was held to receive a comprehensive planning study report relative to the Haw Creek area, and extending the present moratorium in said area.

Mayor McDevitt said on February 26, 1985, Council adopted Ordinance No. 1498 imposing a moratorium on property in the Haw Creek area for the issuance of any zoning or building permits and consideration of any request for group development review by the Planning and Zoning Commission through May 28, 1985. At this public hearing, Council will receive a report from the Planning and Zoning Department resulting from a comprehensive planning study of the area. Public comments with regard to said comprehensive planning study will also be received, and Council will consider what action, if any, to take as a result of the comprehensive planning study, including the possibility of an extension of said moratorium.

Mayor McDevitt opened the public hearing at 4:18 p.m.

The City Clerk presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, presented members of Council with the Comprehensive Planning Study Report relative to the Haw Creek area. He also presented members of Council with a copy of the Haw Creek Homeowners Association's Planning Report.

Mr. Emrick summarized the Comprehensive Planning Report, which is attached to and made a part of the minutes.

Bob McDonald, Traffic Engineer, outlined the Haw Creek Street and Traffic Improvements Report, attached to and made a part of the minutes.

Mr. McDonald said he could not recommend an extension of the present moratorium in Haw Creek because of the traffic conditions alone.

Rick Harper, with the Water and Sewer Department, outlined the Sewer Report, which is attached to and made a part of the minutes.

Mr. Harper said the water system in Haw Creek, on a whole, is good. He said there is low pressure in spots. He said before major developments could be added to the area, improvements to the water system would be needed.

Dorothy Davis, Chairman of the Haw Creek Homeowners Association, spoke in support of an extension of the moratorium.

Ed Dyson, member of the Haw Creek Homeowners Association, read the "Report from the Haw Creek Homeowners Association" attached to and made a part of the minutes.

Bob McPherson, Sondley Estates, thanked members of Council for their cooperation with the Haw Creek Homeowners Association.

Mayor McDevitt closed the public hearing at 5:20 p.m.

Tuesday - May 21, 1985 - 4:00 p.m.

Asheville Civic Center Banquet Room

Regular Meeting

Present: Mayor Larry McDevitt, Vice-Mayor Wilhelmina Bratton; Councilmen Mary Lloyd Frank, Norma T. Price, Walter R. Boland, and Louis Bissette; Corporation Counsel William F. Slawter; City Manager Neal Creighton; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Councilman Gordon Myers

INVOCATION

The invocation was given by Councilman Norma Price.

APPROVAL OF THE MINUTES - MAY 14, 1985 MEETING

1. Approval of the minutes of the May 14, 1985 meeting.

Mayor McDevitt announced the approval of the minutes as submitted.

AMENDMENT TO THE MINUTES OF THE APRIL 23, 1985 MEETING

Councilman Frank moved to amend the minutes of the April 23, 1985, meeting of the Asheville City Council, page 121, relating to the rezoning of property located on Hemphill Knoll at Gashes Creek and I-40 as follows:

Delete the paragraph "On a roll call vote of 5-1, Ordinance No. 1510 passed on first reading with Mayor McDevitt voting 'No'."

Further, that Councilman Boland's motion be amended to reflect the postponement of the first reading of Ordinance No. 1510 until May 28, rather than the postponement of the second reading. This motion was seconded by Councilman Bissette and carried unanimously.

PROCLAMATION - "PUBLIC WORKS WEEK"

1A. Mayor McDevitt read a proclamation proclaiming May 19-25, 1985, as "Public Works Week."

Mayor McDevitt presented the proclamation to Clark Brown, Director of Public Works for the City of Asheville.

Mr. Brown introduced the divisions heads under the Public Works Department.

PUBLIC HEARING - COMPREHENSIVE PLANNING STUDY REPORT RELATIVE TO HAW CREEK AREA - EXTENDING PRESENT MORATORIUM IN HAW CREEK AREA

Mayor McDevitt opened the public hearing at 5:30 p.m.

The City Clerk presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Mr. Emrick, Director of Planning, said the project would consist of 23 units of office condominiums. He said all water and sewer commitments are in place.

Mayor McDevitt closed the public hearing at 5:33 p.m.

Vice-Mayor Bratton moved to approve the site plan of the proposed Sweet Creek Office Park to be located on Sweeten Creek Road. This motion was seconded by Councilman Bissette and carried unanimously.

ORDINANCE NO. 1514 - AN ORDINANCE AMENDING ORDINANCE 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED (WORDING AMENDMENT RELATIVE TO PROPOSED STRUCTURAL HEIGHTS IN THE R-1 AND THE R-2 DISTRICT)

5. Consideration was given to the third reading of Ordinance No. 1514, an ordinance amending Ordinance No. 322, known as "an ordinance providing for the zoning of the City of Asheville," as amended (wording amendment relative to proposed structural heights in the R-1 and R-2 Districts).

Mayor McDevitt said this ordinance was previously read on first and second reading and would not be reread in its entirety unless there was a specific request to do so.

Gary Rowe, Attorney, speaking on behalf of the Sunset Homeowners Association, spoke in support of the ordinance.

Melba Thompson, with the Haw Creek Homeowners Association, also spoke in support of the ordinance.

On a roll call vote of 6-0, Ordinance No. 1514 passed on third and final reading.

Complete text of Ordinance No. 1514 will be found in Ordinance Book No. 10 at page 265, 266, and 267.

ORDINANCE NO. 1515 - AN ORDINANCE AMENDING ORDINANCE 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED (REZONING PROPERTY LOCATED AT 31 GRANBY STREET AND 18 ARDEN ROAD)

6. Consideration was given to the second reading of Ordinance No. 1515, an ordinance amending Ordinance No. 322, known as "an ordinance providing for the zoning of the City of Asheville," as amended (rezoning property located at 31 Granby Street and 18 Arden Road).

Councilman Price moved for the adoption of Ordinance No. 1519 with the stipulation that the moratorium be extended for 90 days, August 25, 1985, and that detached single family residences be excluded from the moratorium. This motion was seconded by Councilman Boland.

On a roll call vote of 6-0, Ordinance No. 1519 passed on first reading.

PUBLIC HEARING - REVISION TO RULES 4 AND 29 OF THE CIVIL SERVICE RULES AND REGULATIONS

RESOLUTION NO. 85-79 - RESOLUTION APPROVING THE REVISION OF RULES 4 AND 29 OF THE CIVIL SERVICE RULES

3. A public hearing was held relative to the revision of Rules 4 and 29 of the Civil Service Rules and Regulations.

Mayor McDevitt said this public hearing is to allow employees, who are members of the Classified Service of the City of Asheville, an opportunity to provide input and recommendations concerning revisions of Rules 4 and 29 of the Civil Service Rules and Regulations. Proposed revisions are being made in order to comply with the provisions of the ADEA (Age Discrimination Employee Act).

Mayor McDevitt opened the public hearing at 5:28 p.m.

The City Clerk presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

There being no comments from City employees or the public, Mayor McDevitt closed the public hearing at 5:29 p.m.

Mayor McDevitt said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Vice-Mayor Bratton, seconded by Councilman Frank, Resolution No. 85-79 was unanimously adopted.

Complete text of Resolution No. 85-79 will be found in Resolution Book No. 15 at page 214.

PUBLIC HEARING - SITE PLAN OF PROPOSED SWEET CREEK OFFICE PARK - SWEETEN CREEK ROAD

4. A public hearing was held relative to a site plan of the proposed Sweet Creek Office Park to be located on Sweeten Creek Road.

Mayor McDevitt said the Asheville Planning and Zoning Commission at a meeting held April 3, 1985, reviewed the site plan of the proposed Sweet Creek Office Park to be located on Sweeten Creek Road. The plan was prepared by John Broadbooks, Landscape Architect, for Ken Partin, Developer, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of the site plan to City Council subject to compliance with the Erosion Control Ordinance.

Mayor McDevitt said this ordinance was previously read on first reading and would not be reread in its entirety unless there was a specific request to do so.

On a roll call vote of 6-0, Ordinance No. 1517 passed on second reading.

CLAIMS - WANDA STEIN (WATER) - GREG OGLE (SEWER)

The City Manager presented claims received from Wanda Stein and Greg Ogle.

Mayor McDevitt referred the claims to the Corporation Counsel for investigation and recommendation.

LAWSUITS - HARRY BRUMMER VS. BOARD OF ADJUSTMENTS (APPEAL FROM BOARD OF ADJUSTMENT DECISION)

The City Manager said the City was served with a summons in connection with a lawsuit involving Harry Brummer, Brummer vs. the Board of Adjustment.

Mayor McDevitt referred to summons to the Corporation Counsel for investigation and recommendation.

DISCUSSION OF CHANGE OF SITE PLAN FOR CIMMARON VILLAGE - SWEETEN CREEK ROAD

A discussion was held relative to a site plan change in the Cimmaron Village project located on Sweeten Creek Road.

After discussion, it was the consensus of Council to discuss this matter during the Pre-Council Meeting on May 28, 1985.

ADJOURNMENT

Upon motion, the meeting adjourned at 5:55 p.m.

Larry McDevitt
MAYOR

William J. Wellborn
CITY CLERK

Mayor McDevitt said the Asheville Planning and Zoning Commission at a meeting held April 3, 1985, considered the request of Mr. John Nilsson, Agent for Asheville Hand Center, that Ward 1, Sheet 8, Lots 141 and 143 be rezoned from R-2 Residential District to OI Office Institutional District. The property is located at 31 Granby Street and 18 Arden Road. After review and discussion, the Commission voted to recommend to City Council that Ward 1, Sheet 8, Lot 141 and a portion of Lot 143, be rezoned from R-2 Residential District to OI Office Institutional District, leaving a 30' R-2 Residential District buffer along Granby Street and Arden Road. This ordinance was read on first reading on May 14, 1985.

Mayor McDevitt said this ordinance was previously read on first reading and would not be reread in its entirety unless there was a specific request to do so.

On a roll call vote of 6-0, Ordinance No. 1515 passed on second reading.

ORDINANCE NO. 1516 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE" AS AMENDED - (REZONING PROPERTY LOCATED BEHIND PEARLMAN'S ON TUNNEL ROAD)

7. Consideration was given to the second reading of Ordinance No. 1516, an ordinance amending Ordinance No. 322, known as "an ordinance providing for the zoning of the City of Asheville," as amended (rezoning property located behind Pearlman's on Tunnel Road).

Mayor McDevitt said the Asheville Planning and Zoning Commission at a meeting held April 3, 1985, considered the request of Mr. Steve Russell, Trust Office NCNB, for Julian Long Estate, and Mr. M. M. Pearlman that Ward 8, Sheet 11, Lots 50 and 51, be rezoned from R-3 Residential District to CH Commercial Highway District. The property is located behind Pearlman's on Tunnel Road. After review and discussion, the Commission voted to recommend to City Council that Ward 8, Sheet 11, Lots 50 and 51, be rezoned from R-3 Residential District to CH Commercial Highway District. This ordinance was read on first reading on May 14, 1985.

Mayor McDevitt said this ordinance was previously read on first reading and would not be reread in its entirety.

On a roll call vote of 6-0, Ordinance No. 1516 passed on second reading.

ORDINANCE NO. 1517 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE" AS AMENDED - (REZONING PROPERTY LOCATED AT 941 FAIRVIEW ROAD

8. Consideration was given to the second reading of Ordinance No. 1517, an ordinance amending Ordinance No. 322, known as "an ordinance providing for the zoning of the City of Asheville," as amended (rezoning property located at 941 Fairview Road).

Mayor McDevitt said the Asheville Planning and Zoning Commission at a meeting held April 3, 1985, considered the request of Mr. James Schumacher that Ward 7, Sheet 27, Lot 42, be rezoned from LI Light Industrial District to R-3 Residential District. This ordinance was read on first reading on May 14, 1985.

Complete text of Resolution No. 85-80 will be found in Resolution Book No. 15 at page 216.

ORDINANCE NO. 1510 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED - PROPERTY LOCATED AT GASHES CREEK AND I-40 (GEORGE BEVERLY PETITION)

5. Consideration was given to the first reading of Ordinance No. 1510, an ordinance amending Ordinance No. 322, known as "An ordinance providing for the zoning of the City of Asheville," as amended - property located at Gashes Creek and I-40 (George Beverly Petition).

Mayor McDevitt said the Asheville Planning and Zoning Commission at a meeting held March 13, 1985, considered the request of Mr. George Beverly, Agent, that Ward 13, Sheet 33, Lot 68, and Ward 13, Sheet 34, Lot 11, be rezoned from R-2 Residential District to OI Office Institutional District. The property is known as Hemphill Knoll at Gashes Creek and I-40. After review and discussion, the Commission voted to recommend to City Council that a portion of Lot 68, Sheet 33, Ward 13, and a portion of Lot 11, Sheet 34, Ward 13, be rezoned from R-2 Residential District to OI Office Institutional District. This would leave a 100-foot strip of R-2 buffer on the southern border abutting the Blue Ridge Parkway and Lot 78, Sheet 33, Ward 13, and on the northwestern margin abutting Lots 37½ and 8¼, Sheet 33, Ward 13. At the April 23, 1985, meeting, the first reading of this ordinance was postponed until May 28, 1985.

Verl Emrick, Director of Planning, noted Planning and Zoning Commission's recommendation to rezone the property stating that the Commission recommended that a 100-foot strip of R-2 buffer be provided around the property. He said the 100' strip, abutting Lot 78, should be left in its natural state. The developer agreed not to develop any part of this and that this would be left in its natural state.

George Beverly, petitioner for the rezoning, said the proposed use of the property would be a 160-unit hotel with a recreational complex in Phase I and a 240-unit condominium complex during Phase II of the project. He said the total project cost would be approximately 35 million dollars and would provide approximately 200 new jobs in the area. He said Phase I of the project should be completed in one to one and one-half years, and Phase II should be completed within two years.

Mayor McDevitt said members of Council were furnished copies of the ordinance and it would not be read in its entirety.

Councilman Boland moved for the adoption of Ordinance No. 1510. This motion was seconded by Vice-Mayor Bratton.

On a roll call vote of 6-0, Ordinance No. 1510 passed on first reading.

SITE PLAN OF SHAWNEE TRAIL APARTMENTS TO BE LOCATED ON SHAWNEE TRAIL

6. A public hearing was held relative to a site plan of the proposed Shawnee Trail Apartments to be located on Shawnee Trail.

Tuesday - May 28, 1985 - 4:00 p.m.

Regular Meeting

Present: Mayor Larry McDevitt, Presiding; Vice-Mayor Wilhelmina Bratton; Councilmen Mary Lloyd Frank, Gordon Myers, Walter R. Boland, and Louis Bissette; Corporation Counsel William F. Slawter; City Manager Neal Creighton; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Councilman Norma T. Price.

INVOCATION

1. The invocation was given by Mayor Larry McDevitt.

APPROVAL OF THE MINUTES - MAY 21, 1985 MEETING

2. Approval of the minutes of May 21, 1985, meeting.

Mayor McDevitt announced the approval of the minutes as submitted.

PROCLAMATION - "PUBLIC RADIO CELEBRATION WEEK" - WEEK OF MAY 28, 1985

3. Mayor McDevitt read a proclamation proclaiming the week of May 28, as "Public Radio Celebration Week."

Mayor McDevitt presented the proclamation to Barbara Sayer with WCQS-FM 81.1 Public Radio Station.

RESOLUTION NO. 85-80 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE ON BEHALF OF THE CITY OF ASHEVILLE AN AGREEMENT BY AND AMONG THE CITY OF ASHEVILLE, THE COUNTY OF BUNCOMBE AND WALTER J. SKAYHAN, III

4. Consideration was given to a resolution authorizing the Mayor to execute on behalf of the City of Asheville an agreement by and among the City of Asheville, the County of Buncombe, and Walter J. Skayhan, III.

Mayor McDevitt said this action culminates over five months of negotiations between the City, the County of Buncombe, and Mr. Walter J. Skayhan of Baltimore, Maryland. He said this project will be located at the intersection of Haywood Street and Walnut Street and involves the old J. C. Penney and Bon Marche properties. He said the reuse of these buildings will consist of approximately 60 residential units on the upper floors and 18,000 square feet of commercial space surrounding a pedestrian arcade which will access parking at the street level.

Mayor McDevitt said members of Council were previously furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Vice-Mayor Bratton, seconded by Councilman Boland, Resolution No. 85-80 was unanimously adopted.

Upon inquiry of Ralph Bishop, Mayor McDevitt answered questions relative to the developer acquiring properties for the improvements.

Kenneth Pankow, Engineer retained by the Redwood Forest Homeowners Association, presented a study relative to the stability of the site. He said the site plans should not be approved until a much more comprehensive engineering study is made and there is much more assurance of site stability.

Attorney William Radeker spoke relative to the site stability, the fill dirt, and the traffic problems in the area.

Mr. Eddie Greene also spoke relative to the site stability of the project.

Mr. Raymond Stepp, of Crockett Avenue, spoke in opposition to the project.

Mr. James Pack, adjacent property owner to the proposed project, also spoke in opposition to the project.

Mr. Birdsong, Engineer, said his company did the subsurface engineering study of the site. He said there would be long-term settlement in the fill, but this would not affect the surrounding neighborhood.

After discussion, Mayor McDevitt closed the public hearing at 7:08 p.m.

The site plan for the proposed Shawnee Trail Apartments was not approved for the lack of a motion.

PUBLIC HEARING - SITE PLAN OF PROPOSED WOODBERRY APARTMENTS - OFF NEW CURVE STREET

7. A public hearing was held relative to a site plan of the proposed Woodberry Apartments to be located off New Curve Street.

Mayor McDevitt said the Planning and Zoning Commission, at a meeting held May 1, 1985, reviewed the site plan of the proposed Woodberry Apartments to be located off New Curve Street. The site plan was prepared by Butler Associates, Engineers, for Poff Construction Company, Christiansburg, Virginia, Developer, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of the site plan to City Council subject to compliance with the Erosion Control Ordinance.

Mayor McDevitt opened the public hearing at 7:40 p.m.

The City Clerk presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said the Planning and Zoning Commission had recommended approval of the site plan subject to compliance with the Erosion Control Ordinance. He said the project would consist of 164-unit apartment complex. Ron Butler, Engineer for the proposed Woodberry Apartments, said the apartments would be privately owned, but financed with tax exempt revenue bonds issued by the Asheville Housing Authority because it is located in a redevelopment area. He said no government subsidies would be involved, but because the project is in a redevelopment area, it will be financed with these bonds. Twenty percent of the units must be occupied by tenants whose incomes are less than 80 percent of the average income in the Asheville area.

Mayor McDevitt said the Planning and Zoning Commission at a meeting held April 3, 1985, reviewed the site plan of the proposed Shawnee Trail Apartments to be located on Shawnee Trail. The site plan was prepared by John Reid, Architect, for Mr. George Morosani, Developer, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of the site plan to City Council subject to the following conditions: 1) receipt of a letter from NCDOT indicating that they will accept the storm drainage at the southwest corner of the property; 2) submission of an engineering study indicating the stability of the site; 3) buffering; and 4) compliance with Erosion Control Ordinance.

Mayor McDevitt opened the public hearing at 4:26 p.m.

The City Clerk presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, outlined the stipulations by Planning and Zoning Commission in recommending approval of the site plan. He said the developer had agreed to install an 8-inch fire line to the project. He said the project had also been approved for water consumption and had received commitments from the Metropolitan Sewerage District. He said a letter had been received from the NC Department of Transportation that the developer had submitted an erosion control plan. He said after staff investigation, it would be staff's opinion that the streets and roads in this area are adequate to handle the new development. He said access to the property would be on Beechwood Avenue. He said the developer had presented a report from Soil and Materials, Inc., relative to the stability of the site. He said the property is made up of fill material consisting of rock and fill dirt from the I-240 and Beaucatcher Cut project. He said the fill is approximately 70 to 100 feet deep.

John Reid, Architect for the developer, spoke in support of this project. He said the developer is not asking for any variances or changes in zoning, whatsoever, and the project met all requirements of the Group Development Ordinance. Mr. Reid detailed the engineer's report relative to the stability of the site. He answered general questions from members of Council relative to the report.

Mr. George Morosani, Developer, spoke in support of the project and requested approval.

William Cagle, Attorney for the developer, spoke in support of the project stating that the proposed plans meet all requirements of the Group Development section of the Zoning Ordinance.

Lem Moore, Director of Inspections, said a more comprehensive engineer's report would be needed prior to a permit being issued.

Richard Schumacher, Attorney for the Redwood Forest Homeowners Association, spoke in opposition to the proposed project. He said the project would have a serious effect on the Redwood Forest neighborhood. He said, in his opinion, the property is not zoned properly and should be zoned R-1 Residential District. He said the project poses problems with traffic, site stability, sewer, and access.

Mayor McDevitt closed the public hearing at 8:46 p.m.

Mayor McDevitt said members of Council were furnished copies of the ordinance and it would not be read in its entirety.

Councilman Frank moved for the adoption of Ordinance No. 1520. This motion was seconded by Councilman Myers.

On a roll call vote of 6-0, Ordinance No. 1520 passed on first reading.

PUBLIC HEARING - PROPOSED ADDITION OF A HEALTH CLUB AND TENNIS CENTER TO THE GROVE PARK INN

9. A public hearing was held relative to site plan of the proposed addition of a Health Club and Tennis Center to the Grove Park Inn.

Mayor McDevitt said the Planning and Zoning Commission at a meeting held on April 17, 1985, reviewed the site plan of the proposed addition to a Health Club and Tennis Center to the Grove Park Inn located on Macon Avenue. The plan was prepared by Mayse and Associates, Architects, Dallas, Texas, for Grove Park Inn, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of the site plan to City Council, subject to provision of appropriate buffering and compliance with the Erosion Control Ordinance.

Mayor McDevitt opened the public hearing at 8:49 p.m.

The City Clerk presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said the project would be developed in two phases with two structures. He said the project would be constructed compatible to the architecture of Grove Park Inn. He said there are problems at present with the Erosion Control Ordinance; however, they are in the process of correcting the problems. He said provisions are being made for the appropriate buffering as requested by the Planning and Zoning Commission.

Jack Westall, Attorney for the Grove Park Inn, spoke in support of the project.

Mayor McDevitt closed the public hearing at 8:58 p.m.

Councilman Bissette moved for the approval of the site plan of the proposed addition of a Health Club and Tennis Center to the Grove Park Inn subject to the provisions of the Planning and Zoning Commission. This motion was seconded by Vice-Mayor Bratton and carried unanimously.

PRESENTATION OF 1985-86 BUDGET FOR THE CITY OF ASHEVILLE - SCHEDULING PUBLIC HEARING FOR JUNE 11, 1985

10. The City Manager presented the proposed 1985-86 budget for the City of Asheville and requested that a public hearing be scheduled on the budget for June 11, 1985. He said a copy of the budget would be available in the City Clerk's office for review.

Larry Holt, Deputy Director of the Asheville Housing Authority said housing for low income residents is more readily available than homes for moderate income families such as those who would live in the Woodberry Apartments and that there is a significant need for such housing.

Marla Tugwell spoke in opposition to the proposed Woodberry Apartments expressing concern about the visual impact and physical damage to Beaucatcher to build the apartments.

Mr. Neal Stewart, resident of the neighborhood, also spoke about the concerns of visual impact that the project would have on the mountain. He also spoke relative to problems with soil erosion.

Mr. Burton, with the East/End Valley Street Community Association said the residents in the area supported the project.

After discussion, Mayor McDevitt closed the public hearing at 8:41 p.m.

Vice-Mayor Bratton moved to approve the site plan of the proposed Woodberry Apartments to be located off New Curve Street contingent upon compliance with the Erosion Control Ordinance and further that the developers meet and receive approval of the landscaping plan for the project from Council. This motion was seconded by Councilman Boland and carried on a voice vote of 5-1 with Councilman Frank voting "no."

PUBLIC HEARING - REZONING PROPERTY LOCATED AT THE CORNER OF CHARLOTTE AND CHESTNUT STREETS

ORDINANCE NO. 1520 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED - PROPERTY LOCATED AT NORTHWEST CORNER OF CHARLOTTE AND CHESTNUT STREET (W. NEAL HANKS, AGENT)

8. A public hearing was held relative to rezoning property at the northwest corner of Charlotte and Chestnut streets (requested by W. Neal Hanks, Agent).

Mayor McDevitt said the Asheville Planning and Zoning Commission at a meeting held on April 17, 1985, considered the petition of Mr. W. Neal Hanks, Agent, that Ward 2, Sheet 26, portion of Lot 124, be rezoned from R-4 Residential District to CG Commercial General District. The property is located at the northwest corner of Charlotte and Chestnut Streets. After discussion, the Commission recommended that the property be rezoned as petitioned.

Mayor McDevitt open the public hearing at 8:43 p.m.

The City Clerk presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said the proposed use of the property would be for a restaurant.

George Beverly spoke in support of the rezoning.

Mayor McDevitt said the Planning and Zoning Commission, at a meeting held April 3, 1985, considered the request of Mr. John Nilsson, Agent for Asheville Hand Center, that Ward 1, Sheet 8, Lots 141 and 143 be rezoned from R-2 Residential District to OI Office Institutional District. The property is located at 31 Granby Street and 18 Arden Road. After review and discussion, the Commission voted to recommend to City Council that Ward, 1, Sheet 8, Lot 141 and a portion of Lot 143, be rezoned from R-2 Residential District to OI Office Institutional District, leaving a 30 foot R-2 Residential District buffer along Granby Street and Arden Road. This ordinance was read on first reading on May 14, 1985, and on second reading on May 21, 1985.

Mayor McDevitt said this ordinance was previously read on first and second reading and would not be reread in its entirety unless there was a specific request to do so.

On a roll call vote of 6-0, Ordinance No. 1515 passed on third and final reading.

Complete text of Ordinance No. 1515 will be found in Ordinance Book No. 10 at page 268-269.

ORDINANCE NO. 1516 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED - REZONING PROPERTY LOCATED ON TUNNEL ROAD (STEVE RUSSELL, NCNB, AND M. M. PEARLMAN PETITION)

13. Consideration was given to the third reading of Ordinance No. 1516, an ordinance amending Ordinance No. 322, known as "An ordinance providing for the zoning of the City of Asheville," as amended - rezoning property located on Tunnel Road (Steve Russell, NCNB, and M. M. Pearlman Petition).

Mayor McDevitt said this ordinance was previously read on first and second reading and would not be reread in its entirety unless there was a specific request to do so.

On a roll call vote of 6-0, Ordinance No. 1516 passed on third reading.

Complete text of Ordinance No. 1516 will be found in Ordinance Book No. 10 at page 270-271.

ORDINANCE NO. 1517 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED - PROPERTY LOCATED AT 941 FAIRVIEW ROAD (JAMES SCHUMACHER PETITION)

14. Consideration was given to the third reading of Ordinance No. 1517, an ordinance amending Ordinance No. 322, known as "An ordinance providing for the zoning of the City of Asheville," as amended - property located at 941 Fairview Road (James Schumacher Petition).

Mayor McDevitt said the Planning and Zoning Commission, at a meeting held April 3, 1985, considered the request of Mr. James Schumacher that Ward 7, Sheet 27, Lot 42, be rezoned from LI Light Industrial District to R-3 Residential District. The property is located at 941 Fairview Road. After

Councilman Frank moved to schedule a public hearing relative to the 1985-86 budget for the City of Asheville for June 11, 1985. This motion was seconded by Councilman Boland and carried unanimously.

ORDINANCE NO. 1519 - AN ORDINANCE AMENDING ORDINANCE NO. 1498 EXTENDING THE NINETY (90) DAY MORATORIUM LIMITING THE DEVELOPMENT IN THE HAW CREEK AREA

11. Consideration was given to the second and third reading of Ordinance No. 1519, an ordinance amending Ordinance No. 1498 extending the ninety (90) day moratorium limiting the development in the Haw Creek Area.

Mayor McDevitt said on February 26, 1985, Council adopted Ordinance No. 1498 imposing a moratorium on property in the Haw Creek area for the issuance of any zoning or building permits and consideration of any request for group development review by the Planning and Zoning Commission through May 18, 1985. At this public hearing, Council will receive a report from the Planning and Zoning Department resulting from a comprehensive planning study of the area. Public comments with regard to said comprehensive planning study will also be received and the City Council will consider what action, if any, to take as a result of the comprehensive planning study, including the possibility of an extension of said moratorium. This ordinance passed on first reading at the May 21 meeting.

At the request of the Corporation Counsel, Councilman Bissette moved to amend Ordinance No. 1519 to include that "provided, however, that this extension shall not be applicable to the issuance of permits associated with the construction of single-family dwelling located more than 300 feet from a public sewer line. Provided further that in the event the North Carolina Department of Natural Resources and Community Development should lift its ban on sewer connections in the area; then in that event, this extension shall not be applicable to the issuance of permits associated with the construction of single-family dwellings within 300 feet of a public sewer line." This motion was seconded by Councilman Frank and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1519, as amended, passed on second reading.

Councilman Frank moved to suspend the rules and proceed to the third reading of Ordinance No. 1519. This motion was seconded by Councilman Boland and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1519, as amended, passed on third and final reading.

Complete text of Ordinance No. 1519 will be found in Ordinance Book No. 10 at page 275-276.

ORDINANCE NO. 1515 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED - (REZONING PROPERTY LOCATED AT 31 GRANBY STREET AND 18 ARDEN ROAD)

12. Consideration was given to the third reading of Ordinance No. 1515, an ordinance amending Ordinance No. 322, known as "An ordinance providing for the zoning of the City of Asheville," as amended - (rezoning property located at 31 Granby Street and 18 Arden Road).

HAW CREEK STUDY

On February 26, 1985, the Asheville City Council acting on a recommendation from the Asheville Planning and Zoning Commission placed a moratorium on development in the Haw Creek valley. The primary purpose for the action was to study development patterns, assess utility and roadway systems in order to determine their development capacity, and propose a plan for the valley.

The following report will outline specific problems found during the study and relay recommendations for their solutions.

Continuation of Moratorium

First, as to the continuation of the moratorium, it is staff's recommendation that City Council inact a continuation of the moratorium. However, it is staff's opinion that single family detached units be excluded. We have had several requests for permits for this type of development during the last ninety (90) days. Finally, in our opinion, the area covered by the moratorium should remain the same.

The reasons for the continuation are as follows:

1. Design and installation of a new sewer line along New Haw Creek Road will take at least 120 days to complete. Until then, no permits may be issued.

2. The Asheville-Buncombe Water Authority at its March meeting directed McGill Associates to conduct an engineering study and to make specific recommendations on improvements for the valley. This study will not be completed for presentation until June.

3. New zoning district recommendations have been developed, but specific area boundaries have not been agreed on by the resident's association. Estimated time for completion is sixty (60) days.

Therefore, we would recommend continuation of the moratorium for an additional ninety (90) days. Further, in order to avoid any time lapse in between the existing and proposed moratorium, City Council will need to enact an ordinance prior to May 29, 1985.

Water and Sewer

Sewer

The major problem found in the sanitary sewer system in the valley was that of st ground water infiltration into the lines. This problem was comp letailed in a 1977 Metropolitan Sewer District study entitled ty Plan for the Improvements to the Public Sanitary Sewer etropolitan Asheville."

CITY OF ASHEVILLE

DEPARTMENT OF PLANNING

704/255-5434

May 17, 1985

Honorable Mayor and
Members of City Council
City of Asheville
P. O. Box 7148
Asheville, N. C. 28807

RE: Transmittal - Haw Creek Report

Dear Mayor & Members of Council:

Attached hereto you will find staff's report on Haw Creek. The report basically outlines the issues dealt with and actions recommended to either correct a problem or suggest a method by which properties can be developed to deal with a specific issue.

While reports on land use development and the water system have not been completed, they will be shortly, and the results communicated to you at that time.

Please review this material and advise of any questions or comments.

Sincerely,

Verl R. Emrick, Jr.
Planning Director

VREJR/nr
Encl/1
cc/Neal Creighton, City Manager
Department Heads

Water

While pressure and volumes of water for both domestic and fire services is generally good throughout the valley there are some trouble spots. Recognizing this, the Asheville-Buncombe Water Authority has directed that a complete engineering study be conducted in the valley. The purpose of which is to make specific recommendations by priority for improvements to the system.

As noted previously that study is not complete, but is expected in June. Therefore, any recommendations and discussions will be deferred until that time.

Land Use

The predominant land use in the valley is residential with some commercial activity in the general area of "Miller's Store" and for that property fronting U. S. 70. Unlike other similar neighborhoods, the valley is not experiencing pressures of commercial intrusions by rezonings or expansion of existing commercial uses. The primary issue being dealt with is single family detached residential use vs. multi-family development.

In the past two years the valley, largely because of the availability of undeveloped tracts of land, has attracted several apartment and condominium projects. The total units either constructed or approved for construction are in excess of 650 units. This development spirit has resulted in the emergence of land use or land development issues around which the community has expressed strong feeling.

The basic issue is that of single-family development vs. multi-family development. The following issue, which has been discussed earlier, is the carrying capacity of the utility and road systems and the ability to handle additional development of any type regardless of availability of land.

The concern about the resolution of these issues has resulted in the submission of a zoning proposal by the Haw Creek Community Association, Inc. The proposal would suggest the creation of a new zoning district which would apply to the valley. The proposal labeled R-2A Residential District is detailed as follows:

"R2-A LOW DENSITY SINGLE FAMILY RESIDENTIAL DISTRICT

The Low Density Single Family Residential District is intended as an area where the principal use is residences and any conflict between these uses and any other use of the land is at a minimum.

Without detailing the study's findings, I will summarize them:

1. The principal problem is that of the age of the system which causes a physical breakdown of the lines and connecting joints.

2. The breakdown of the lines allows for, in most instances, a continuous infiltration of ground and storm water into the system. Which in turn causes backups and overloads in the system.

Solutions

1. The North Carolina Department of Natural Resources has by its own action imposed a moratorium on connection along the 8" collection line on New Haw Creek Road from Beverly Road to the Sondley Estates on the upper end of the valley. The solution being developed by the City and County is as follows:

   The City will replace the 8" line with a 20" line within its jurisdiction and the County will install a new 16" line within its jurisdiction. The project will be a joint endeavor; therefore, all construction will occur at the same time which will solve the entire problem for that end of the valley.

   The details of the project are as follows:

   a. City line 5,400 feet 20" line
      County line 6,200 feet 16" line

      Total 11,200 feet

   b. Estimated Cost: $270,000 City
      $270,000 County

      Total $540,000

   (Cost could be higher because of right-of-way acquisition and design for installation within a floodplain).

   c. Schedule:

      1. Field Survey: 75% complete City
         10% complete County
         Estimate four (4) weeks to complete
      2. Design: 4 to 6 six weeks to complete
      3. Review by State: 2 weeks
      4. Bid process: 3 weeks
      5. Installation: 2 - 4 months

The Asheville Planning and Zoning Commission can, if necessary, call a special meeting on short notice to deal with this proposal and report its finding probably within sixty (60) days.

Street and Traffic Improvements

Due to existing development, as well as the development potential of the Haw Creek area, several improvements are now necessary, or will be needed in the near future, to accommodate safe and convenient traffic flow. These improvements range from traffic operations improvements, which can generally be done with minimal costs involved, to somewhat substantial widening and geometric improvements requiring additional right-of-way acquisition and utility relocation on some streets.

The City's Engineering Division and Traffic Engineering Division have worked together with the Planning Department to complete the attached list of recommended street improvements, along with cost estimates on projects for which an estimated cost could be determined.

Traffic counts taken on several Haw Creek streets indicate that the streets have not yet reached a critical capacity problem; however, capacity problems are becoming apparent on some streets and at some intersections during the A.M. and P.M. peaks, especially when Haw Creek School is in session. Although existing volumes do not warrant total lane additions or major turning movement treatments at intersections, consideration should be given, in the near future, to these traffic operations improvements to permit the streets to function at an acceptable level of service and to improve the safety of those streets carrying the heavier traffic volumes.

Finally, the recommended improvements set forth herein represent those of primary importance within the Haw Creek area. However, no priority ranking has been established, nor are we recommending immediate implementation of any particular project. These needs reflect only a portion of total citywide needs. The Comprehensive Plan, which is now being developed, should and will consider these needs in comparison to others throughout the City, and should be used as the guide for establishing total priorities and project funding within the Asheville area.

A. Uses Permitted: Within the single family low density residential district, a building or land shall be used only for the following: single family residences, neighborhood playgrounds, home occupations, golf courses, community centers, public facilities, accessory buildings, greenhouses used as accessory buildings to the primary residence, public utilities, transmission lines, and utility substations (subject to the conditions of the group development review provided for in this ordinance).

B. Conditional Uses: Schools having a curriculum the same as given in public schools, churches, mountainside residences not exceeding the height of the ridge line, and the conversion of existing apartments to condominiums.

C. Development Standards.

Use	Minimum Lot Area (Sq. Ft.)	Maximum Density Dwelling Units/Acre	Minimum Lot Width (Feet)	Maximum Building Height (Feet)	Minimum Yard (Feet) Front	Side	Rear
Residential	10,000	4	100	40	35	10	25
Accessory Building	----	-	---	40	80	7.5	7.5
Non-Residential	40,000	-	200	40	100	20	25"

As can be seen the primary difference in the R-2A vs. R-2 district is the elimination of the multi-family uses as well as lowering the density to four (4) units per acre. In addition a height restriction of forty feet has been suggested which is consistent with the proposal City Council is dealing with now.

Staff recommendation on a method of handling this proposal is to refer it to the Asheville Planning and Zoning Commission for study and recommendation to City Council. The rationale for this suggestion is as follows:

1. While the basic concept of the wording of the R-2A is supportable, the proposal must be placed in context of the overall zoning plan and development plan for the community.

2. In order to implement the proposal in whatever form it may finally take, specific district boundaries must be developed and mapped, and at this point no boundaries have been suggested.

7. Ditchline Improvements

Treatment: Clean, reseed and stabilize ditchlines on City streets in the area.

Estimated Cost: $2.00/lineal foot

8. Pavement Markings/Signage

Treatment: Upgrade pavement markings and traffic control signs where necessary.

Estimated Cost: Can be done as a part of normal Traffic Engineering operations.

9. Street Lighting

Treatment: Upgrade street lighting where needed to improve nighttime driving conditions and security. Installations can be made upon request by property owners, if in compliance with current policy and standards.

Estimated Cost: Not Available

10. Street Maintenance

Treatment: Provide street maintenance for City streets, based on Citywide priorities.

Estimated Cost: Not Available

11. New Haw Creek Road (NCDOT)

Treatment: A) Widen to 24-foot cross-section with curb, gutter and drainage improvements.

Estimated Cost: $2,000,000 (for entire length)

Treatment: B) Realignment of a portion of New Haw Creek Road on a new corridor, to connect with Avon and U.S. 70.

Estimated Cost: $1,000,000

Note: New Haw Creek Road is presently a fourth priority improvement in Asheville's Thoroughfare Plan. The City, through the Technical Coordinating Committee and Transportation Advisory Committee, should request NCDOT's assistance in reevaluating the New Haw Creek Road corridor, based on development potential, to determine if this street should be advanced in priority.

ATTACHMENT

Haw Creek Street and Traffic Improvements

1. Beverly Road

   Treatment: Widen to standard 24 foot cross-section with curb, gutter and drainage improvements.

   Estimated Cost: $350,000

2. Intersection of Beverly Road and New Haw Creek Road

   Treatment: Acquire needed right-of-way and realign intersection approaches to improve sight distance and safety. This action will also provide for better progression of traffic on New Haw Creek Road.

   Estimated Cost: $72,000

3. Intersection of Old Haw Creek Road and Middlebrook Road

   Treatment: Lower grade to eliminate vertical curve and provide for better approach alignment.

   Estimated Cost: $40,000

4. Intersection of Old Haw Creek Road and Waters Road

   Treatment: Realign Old Haw Creek Road approach to T-intersection and allow Waters Road to become the through street.

   Estimated Cost: $42,000

✓5. Old Haw Creek Road

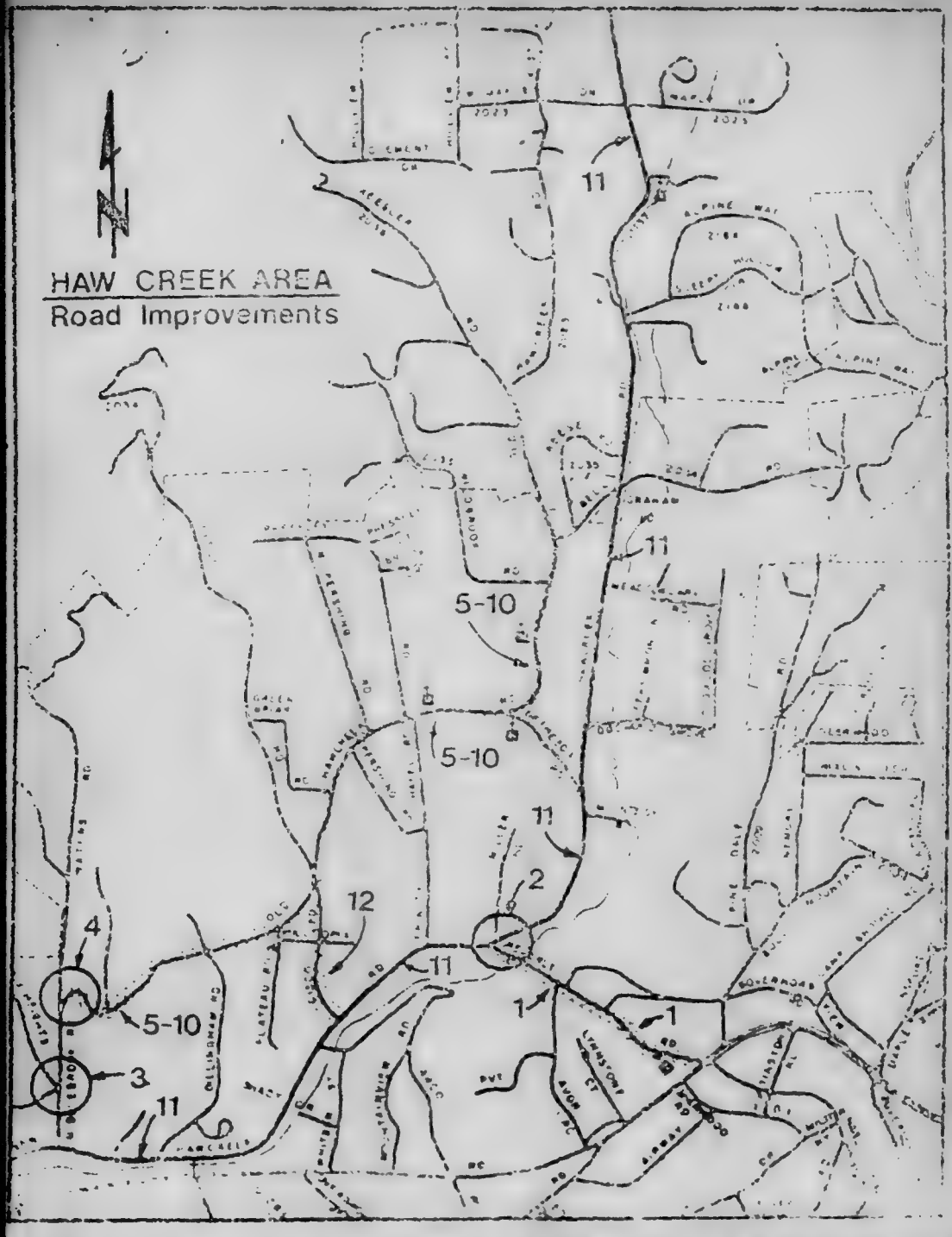
   Treatment: Improve portion inside City Limits with 2-foot paved shoulders on each side and repair ditchlines.

   Estimated Cost: $82,620

6. Improve Sight Distance at Intersections

   Treatment: Removal or relocation of signs, shrubbery, fences, etc.

   Estimated Cost: Not Available


HAW CREEK AREA
Road Improvements
11
2
11
5-10
5-10
11
2
12
4
11
5-10
1
1
3
11

12. Cisco Road (Between New Haw Creek and Old Haw Creek)

Treatment: Widen existing pavement to 20-foot cross-section, improve shoulders and ditchlines.

Estimated Cost: $12,690

TOTAL ESTIMATED IMPROVEMENT COST = $2,599,310*

* May change some, depending on which alternative improvement is selected for New Haw Creek Road.

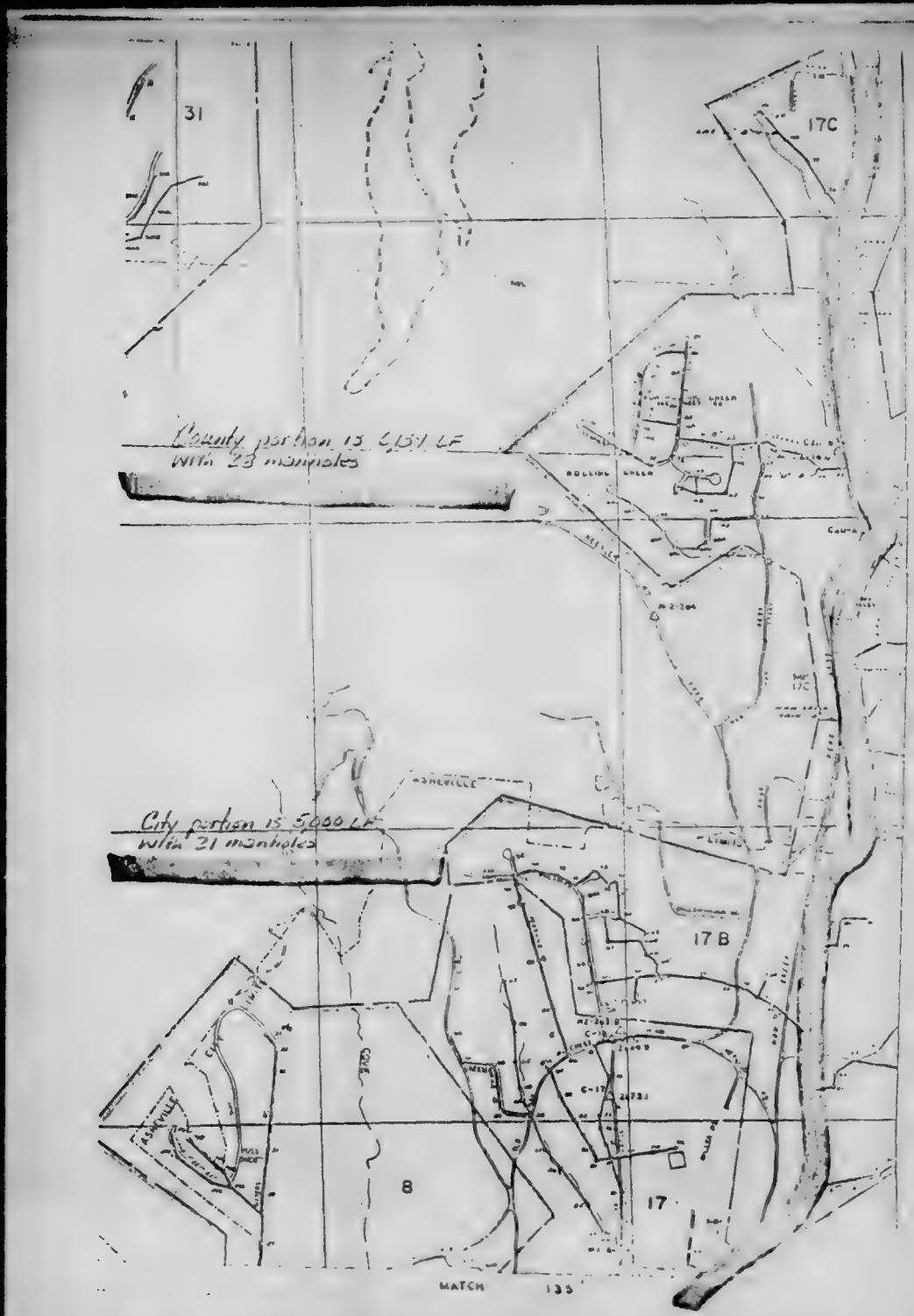
RECEIVED
MAY 20 1985

HAW CREEK COMMUNITY
HORATORIUM

At the last meeting of the Asheville City Council held at the Civic Center before the building moratorium in Haw Creek was imposed, the citizens in the Haw Creek area expressed several concerns about improvements in city services that were needed prior to any further development in their community. Two areas of concern were involving inadequate water and sewer services. During the past three (3) months the staff of the Water and Sewer Services Department has determined that except for some isolated problems the water system that serves the Haw Creek community is adequately serving the existing customers and has enough reserve capacity to serve a limited amount of future development. However, this portion of our water system will need some improvements before any substantial development can take place. The Asheville/Buncombe Water Authority, at their March 1985 meeting, discussed this situation and requested that the Authority's Consulting Engineer, Mr. Gary McGill, conduct a study of the Haw Creek area water supply system and submit to them his recommendations and proposals concerning the necessary improvements. As of this date the engineering report has not been finalized and submitted to the Authority. Also during the past three months the staff of the Water and Sewer Services Department has been involved in determining solutions to the sewer service problems both inside and outside the city limits in the Haw Creek Community. During the month of April 1985 the City of Asheville and the County of Buncombe received a letter from the North Carolina Department of Natural Resources and Community Development. In this letter they pointed out some direct violations to North Carolina General Statutes concerning public sewer systems. All of these except for the replacement of approximately 5,000 lineal feet of eight (8) inch sewer line have been corrected. It should be further understood that by virtue of the letter received from the Department of Natural Resources all sewer line connections of any size have been banned until the replacement of this eight (8) inch sewer line is complete. In light of this it doesn't matter whether Council lifts its moratorium or not as far as sewer connections are concerned. Aside from some "spot" problems, the replacement of this eight (8) inch sewer line would effectively resolve the majority of all sewer problems in the Haw Creek area. It is the opinion of the staff and the Department of Natural Resources that most problems that exist on lateral sewer lines that feed into the main eight inch collector line are directly related to problems that have been identified on the eight (8) inch collector. When this collector line is replaced not only will it stop the overflow of sewage into Haw Creek but will in all probability take care of most overflow problems on the lateral line. There are however a couple of the smaller lateral sewer lines that have been identified as having particular problems which are not congruent with the collector lines problems. The replacement of these two interceptor lines are included in a Sewer Line Master Plan, as well as the replacement of the eight inch collector line and approximately thirty other sewer line replacement projects which are identified as problem lines in various places throughout the city. This Master Plan is currently being prepared for review by Council. Due to the fact that the Council has determined that some sort of work needs to be done in Haw Creek

HAW CREEK AREA TRAFFIC COUNTS - 1985

LOCATION	COUNTS(Jan.-Feb.)	COUNTS (Mar.)
WATERS ROAD	1,124	1,266
OLD HAW CREEK (E. of Waters)	260	366
MIDDLEBROOK ROAD	1,522	1,801
DILLINGHAM ROAD	264	308
CISCO ROAD	1,585	979
NEW HAW CREEK (E. of Trinity Chapel)	2,876	3,488
BEVERLY ROAD	2,489	2,871
PRESSLEY ROAD	691	173
MELTON ROAD	142	137
OLD HAW CREEK (E. of Bethesda)	706	1,124
BELL ROAD	370	392
NEW HAW CREEK (S. of Graham)	3,327	3,354


31
17C
County portion is 4,134 LF
with 23 manholes
City portion is 5000 LF
with 21 manholes
17 B
8
17
MATCH 135

such problems as sewer lines and due to the fact that the State has imposed a moratorium on sewer line connections, whether they are directly or indirectly connecting to the existing eight inch collector line, the staff has initiated the survey and design of the replacement of this eight inch collector with a new twenty inch collector. Also due to the fact that the moratorium placed on sewer line connections by the Department of Natural Resources was not only within the city limits but also outside the city limits on the portion of the sewer line maintained by the County; the Water and Sewer Services staff, along with the City Manager and the City Clerk, met with the Chairman of the Buncombe County Commissioners and his staff to discuss the possibilities of a joint City-County project to eradicate the state imposed moratorium. At that meeting the county staff expressed their willingness to participate in a joint effort, with the City of Asheville, in order to comply with the mandate received from the Department of Natural Resources of the State of North Carolina. The County staff requested that the City proceed beyond the city limits with the survey and design of a new sewer line some 6,100 lineal feet to the end of the county-maintained portion of this same collector line. Should the Council decide that it is in the best interest of the City to proceed with the construction of this sewer line replacement, the county staff also requested that the staff proceed with the administration of a contract to construct a sixteen inch sewer line for the replacement of the eight inch collector line owned and maintained by the County of Buncombe. As of this date the Water Engineering Division of the Water and Sewer Services Department has completed approximately 50% of the survey and design of the sewer collector replacement within the city limits, with the survey and design of the county's portion to begin within the next two weeks.

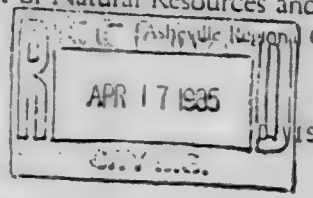
Recommendations:

The Water and Sewer Services staff recommends the replacement of the existing eight inch collector with a new twenty inch collector line to extend from a point near Beverly Road north to the city limit line, consisting of approximately 5,000 lineal feet.

However since the replacement of this line is a part of the above mentioned Master Plan the staff would recommend to Council that priorities only be established after they have had the opportunity to review said Master Plan and the time to evaluate the necessity of all these proposed sewer system improvements.

State of North Carolina
Department of Natural Resources and Community Development

James G. Martin, Governor



S. Thomas Rhodes, Secretary

DIVISION OF ENVIRONMENTAL MANAGEMENT
ASHEVILLE REGIONAL OFFICE
WATER QUALITY SECTION

April 15, 1985

Mr. Neal Creighton
Manager
City of Asheville
Post Office Box 7148
Asheville, North Carolina 28802

Subject: Notice of Non-Compliance
NCGS 143-215.67(a)
NCGS 143-215.1(a)(1), (a)(3)
Haw Creek Collection Sewers
City of Asheville
Buncombe County, North Carolina

Dear Mr. Creighton:

As a result of contact by local residents, an investigation of the Haw Creek Collection System upline from the intersection of New Haw Creek Road and Beverly Road (Miller's Grocery) was conducted during the time period of March 29, 1985 through April 9, 1985, by Water Quality Staff members of this office. Complaints generating this investigation alleged that untreated sewage overflowed the sewerlines at several points in this area during normal and routine rainfall events such that sewage was discharged onto adjacent ground area, and into Haw Creek or its tributaries, waters of the State. The investigation consisted of meetings with residents in the affected community, representatives of the City's Water and Sewer Department, evaluation of material supportive of the complaint (pictures, statements), and on-site visits.

The investigation concluded that normal and routine rainfall periods result in sewage overflow in the main Haw Creek line from the manhole adjacent to the intersection of New Haw Creek Road and Dogwood Drive and the manhole adjacent to McIntosh Road. A newly constructed relief sewer (fall, 1984) from this latter manhole to Haw Creek constitutes clear violation of North Carolina General Statute 143-215.1 (making an outlet into State waters without a permit). Continued existence of this sewer subjects the City of Asheville to civil penalties. Sewage overflow of the system upline of the Dogwood Drive manhole from the lateral serving the Pressley Road area appears more dependent on extreme rainfall events, although special problems were noted in the portion of line behind 20 Willowbrook Road (a hole in the top of exposed sewer should be repaired and the sewerline cleaned), and the collection lines adjacent to 350 Old Haw Creek Road and 337 Old Haw Creek Road. Both Old Haw Creek Road lines connect to the main collection

HAW CREEK COLLECTOR SEWER

CITY OF ASHEVILLE:

APPROXIMATELY 5,000 LF OF SEWER LINE REPLACEMENT WITH 21 MANHOLES

COST ESTIMATE - MATERIALS AND INSTALLATION

20 INCH DUCTILE IRON PIPE - $219,940.00

COUNTY OF BUNCOMBE:

APPROXIMATELY 6,139 LF OF SEWER LINE REPLACEMENT WITH 23 MANHOLES

COST ESTIMATE - MATERIALS AND INSTALLATION

20 INCH DUCTILE IRON PIPE - $267,260.00

16 INCH ABS TRUSS PIPE - $127,952.00

12 INCH ABS TRUSS PIPE - $109,535.00

COST ESTIMATE FOR ENGINEERING

SURVEY & DESIGN---------$ 5,600.00

PROF. ENGR. SERVICES ----$ 2,000.00(if needed)

CONSTRUCTION INSPECTION---$ 10,000.00

CONTRACT ADMINISTRATION---$ 10,000.00

REPORT OF THE HAW CREEK COMMUNITY ASSOCIATION TO ASHEVILLE CITY COUNCIL ON RECOMMENDATIONS FOR THE HAW CREEK STUDY AREA

May 21, 1985

Prepared by the Community Association Development Committee

sewer in this area and appear to overflow whenever the main lateral flows full.

North Carolina General Statute 143-215.67(a) prohibits the addition of wastewater to a waste disposal system in excess of the capacity of the system to treat that wastewater. The Haw Creek sewer system upline from the end of the new outfall which terminates near the intersection of New Haw Creek Road and Beverly Road cannot now carry its present flow, and, therefore, obviously does not have the capacity to receive sewage from additional sources. Therefore, should the City of Asheville allow the tying on of additional sewage sources above this intersection, it would be in violation of North Carolina General Statute 143-215.67(a) and subject to civil penalties and other sanctions as provided by State law. This statutorily imposed prohibition will be lifted at such time that the City of Asheville certifies that rehabilitation/reconstruction of the Haw Creek sewers above the junction of New Haw Creek and Beverly Roads has been completed and succeeds in eliminating overflows as a result of normal and routine rainfalls, and that the sewers again have surplus hydraulic capacity.

In addition, the problem areas discussed in the above paragraphs should be remedied. This statutorily imposed prohibition on new sewer taps would also apply to additions to this sewage collection system outside of City control at the head of Haw Creek Valley in Buncombe County. A copy of this letter is being directed to the Buncombe County Commissioners office in this regard.

We regard the violations noted here as serious, and we will continue to consider other appropriate actions beyond the sewer tape ban, if necessary.

Thank you for your attention to this matter. We will be pleased to discuss any questions or concerns at your convenience.

Yours truly,

Roy M Davis for

Forrest R. Westall,
Regional Engineer

FRW/pf

cc: Buncombe County Commissioners
Bill Mull, MSD
Haw Creek Community Association, Inc.
W. Lee Fleming
Roy M. Davis
Max L. Haner

WATER

Haw Creek Valley's water pressure problems are both too little and too much. Some examples of low water pressure are in the Sondley Estates, areas in Happy Valley, Persimmon Lane, and Cisco Road (which the City is currently correcting). Extremely high water pressure can be found in the 700 block of New Haw Creek Road and the Keasler Circle area.

Low water pressure not only causes a great inconvenience, it increases the danger from fire to our homes and families. The attached report from the Haw Creek Volunteer Fire Department on the water pressure at hydrants in the north end of the Valley attests to this.

The City and County should recommend strongly to the Asheville-Buncombe Water Authority that it provide controls to maintain a reasonable water pressure and adequate water flow to homes and hydrants. In part this can be accomplished with larger water lines, as is being done on Cisco Road. A reservoir or storage tank for the Haw Creek area would solve low water pressure problems and also aid in alleviating the high pressure problems now caused by the pumps at the pumping station.

Fire hydrants should be installed, as stated by City Code, every thousand feet. This is not always the case in the city limits of Haw Creek.

With the use of pressure pumps, the addition of a water storage facility and the upgrading of our water lines, we feel our serious water pressure problems can be brought under control. However, it is our hope that in solving our water pressure problems the Water Authority will plan and construct a system with the extra capacity necessary to meet tomorrow's needs,

REPORT OF THE HAW CREEK COMMUNITY ASSOCIATION TO ASHEVILLE CITY COUNCIL

Haw Creek Valley is a relatively large community within Asheville with many acres of undeveloped land. Its growth is still at a point where we have the opportunity, if we act with determination, to guide development so that it can continue to be the attractive, desirable, neighborhood it is now.

There are problems in the Valley that must be recognized and corrected before development can be allowed to continue. The condition of our sewer and water systems is such a problem; one that can be remedied. Our lack of public recreational facilities and parks demands immediate attention, before growth in the Valley makes the construction of new facilities and pathways and the acquisition of park land too awkward and expensive.

Some hindrances to further growth in Haw Creek are essential to the character of the Valley, and must be considered when planning for the future. Our roads are narrow and winding, and unable to handle an excess of traffic. However, these features do much to give the area its rural flavor. To change these roads for broad, straight throughways would be very costly and would destroy the atmosphere of the Valley. However, some road improvements are necessary in areas where narrow and serpentine roads go beyond being charming and become downright dangerous. In addition, as with many areas of Asheville, careful and informed management of drainage, to prevent erosion, property damage and sewer overflow, must be undertaken as an adjunct to any new construction, public or private.

Keeping these general considerations in mind, the following are our initial recommendations for correcting our problems while protecting the integrity of our Valley.

six inch line should be replaced with an eight inch or larger line, either by the City or the developer. This type of upgrading of the entire connection system through to the main line should be required of all new developments.

Also, all septic tank systems should be routinely inspected by the City and County to insure that they are functioning properly and not overflowing into our streams and ponds.

TRAFFIC

Our streets, as mentioned earlier, are an important part of our Valley. Our survey doesn't indicate much support for major changes to our roads. The feeling is that widening and straightening of our roads would only increase the speeds of some who travel them. This would do nothing for the safety of those who walk them, or who prefer to drive the speed limit.

Based on our survey, we have developed this list of needed improvements. We would like to see immediate attention given to the first dozen items:

1. Completion of the revamping of Middlebrook Road at Old Haw Creek Road as planned.

2. Redesign the intersection of New Haw Creek Road, Beverly Road and Miller Road. The installation of a traffic light or three way stop sign at this corner along with the removal of the dumpster and shrubbery from the side of Dalton Carpet are required for safety. Also, prohibit parking in front of this building and along the side of New Haw Creek Road where the dumpster is currently located.

3. Install a stop sign on the west side of the intersection of Old Haw Creek Road and Cisco Road.

as well as resolve our current problems. City and County officials must be willing to approve a Water Authority budget that will permit practical foresight in planning and building.

SEWAGE

It is apparent that there are no short term solutions to the sewage problems in the Haw Creek area. Replacement of outdated sewer lines is the only solution. Please refer to the attached letter from Mr. Roy Davis of the North Carolina Department of Natural Resources.

The Association recommends the replacement of all public sewer lines in the Valley except the twenty inch line that originates behind Keever's Feed and Seed store, at the corner of Beverly and New Haw Creek Roads. The replacement must include the main lines and the connector lines.

Immediate action should be taken to solve the problem of sewage running into the Creek next to the East Asheville Youth Activities, Inc. ball field. It is a health hazard to the large numbers of children and adults that use the area.

It should be required that all new and replacement sewer connections have a check valve installed between the building and the sewer line.

Storm sewers and gutter drains should not be connected to the sewer lines. Inspections have already been made and offenders have been identified. They must be required to correct the problems.

Mr. Lerner's pending development on Beverly Road will be connecting an eight inch line, as the State requires, into an existing six inch line. This

12. Replace the bridge at Arco Road and New Haw Creek Road as planned by the State.

The following suggestions are things we would like to see in the next five years:

13. Storm drains (culverts) should be installed so that shoulders may be added on both sides of New Haw Creek Road from the intersection with Tunnel Road to Sondley Estates. This should also be done on Old Haw Creek Road from Cisco Road to Bell Road.

14. Pave any road in both the City and the County not designated as private.

15. Widen Bethesda Road, paint a center line and improve the intersection with New Haw Creek Road.

16. A concrete sidewalk, a minimum of three feet wide, on the even side of Tunnel Road from Pearlman's (290) to the V.A. Hospital (1100). The same should be done for New Haw Creek Road from the intersection with Tunnel Road to the city limits (741) and the entire lengths of Trinity Chapel and Bethesda Roads.

17. Repair and/or replace existing curbs.

18. A road and walkway to connect New and Old Haw Creek Road to the access alongside I-240 to Chunns Cove Road.

19. A new road from New Haw Creek Road, South of McIntosh Road, across to Avon Road and the widening of Avon Road to Tunnel Road.

4. Pedestrian crossings are needed at the following locations:

New Haw Creek Road and Bell Road

New Haw Creek Road and Beverly Road

New Haw Creek Road and Trinity Chapel Road

New Haw Creek Road and Bethesda Road

Old Haw Creek Road and Bethesda Road

Old Haw Creek Road and Bell Road

Old Haw Creek Road and Trinity Chapel Road

5. Establish school zones on New Haw Creek Road between Cisco Road and Dogwood Grove Road and on Old Haw Creek Road between Asheville Gospel Chapel (350 Old Haw Creek Road) and Pershing Road.

6. Enforce codes and ordinances on sight distances at intersections.

7. Stop the State Highway Patrol from testing tractor trailers on Whitson and Arco Roads.

8. Reduce the speed limits on New Haw Creek Road to 30 mph and all other roads to 25 mph.

9. Widen Beverly Road to twenty feet, remove the curbs and add a three foot wide shoulder on each side.

10. Remove the two smaller islands at the intersection of New Haw Creek Road and Tunnel Road. Also, make the remaining island more visible at night and during rainy weather.

11. Construct seats for bus riders at the corners of Beverly Road and Tunnel Raod and New Haw Creek Road and Tunnel Road.

Our last suggestion concerns mini-parks and community parks. There are NO parks in Haw Creek Valley -- City, County or otherwise. It is time to target land for parks while there is still open land available. The Community Association is presently exploring ways of persuading private landowners, such as CP&L, to consider donating the use of unused lands for community maintained parks.

Our research indicates that there is an increase in land values following such recreational improvements as bike paths and parks. In addition, a commitment on the part of the City to develop neighborhood-enhancing projects will prove an attraction for new residents and progressive industries to locate in Asheville.

ZONING

Haw Creek has only two narrow roads accessing the majority of the Valley from Tunnell Road. This fact, coupled with the narrow, winding nature of the remainder of the roads in the Valley, causes us to question how much growth our roadways will allow.

A recent survey by the Haw Creek Community Association indicated that 94% of those who responded to the survey were in favor of limiting new growth to single family residences. This survey, the character of our roads, and the fact that many of our current lot sizes do not conform to R-1 specifications, compelled us to write a new zoning ordinance to fit our particular needs. Many of us also felt (and it is clear now that the City Council agrees) that a height restriction of 40 feet is suitable for a residential neighborhood. We call this proposed ordinance R2-A.

20. A new road connecting Bell Road to Pinedale Road.

21. More parking in the commercial area around Millers Store.

PARKS AND RECREATION

The goal of improved recreational facilities in and around Haw Creek is a long term one. Bike paths, hiking trails, sidewalks and parks require extensive planning and financial commitment. It is essential that any long-range planning for the Valley take into consideration the community's recreational needs.

Our first suggestion would be a jogging/walking trail around the periphery of Haw Creek Elementary School. The trail would be about four feet wide and travel mostly through wooded areas of the property. The path would incorporate an existing nature trail, and be kept as natural as possible. This path would be accessible from the adjacent streets as well as the school grounds.

Also, land has been cleared on the west side of the school for public tennis courts. We would like to see the completion of the tennis courts and the addition of several basketball courts.

Our second suggestion concerns the construction of bike paths. We would welcome any bike ways, but would prefer those that could be built some distance from the roads. In particular, a bike path that travelled the length of the valley, parallel to the main creek, would be accessible and useful to the largest number of people, including children wishing to walk or bicycle to school, and people wanting to walk or bicycle to the local grocery or hardware stores. Mini parks could be located along this pathway.

Use	Minimum Lot Area (Sq. Ft.)	Maximum Density Dwelling Units/Acre	Minimum Lot Width (Feet)	Maximum Building Height (Feet)	Minimum Yard (Feet)		
					Front	Side	Rear
Residential	10,000	4	100	40	35	10	25
Accessory Building	------	--	---	40	60	7.5	7.5
Non-Residential	40,000	--	200	40	100	10	25

The Haw Creek Community Association recommends that the entire study area, with the exception of those areas that are currently zoned commercial or R-1, be re-zoned to R2-A.

The Association has spent many hours distributing, collecting and compiling surveys and complaint sheets, and discussing with each other and the community the problems and potentials of Haw Creek. This compiling of information formed the basis for this report. We respectfully hope that the City Council will keep this report in mind when making decisions affecting our Valley. Further, we encourage the Council, in conjunction with Planning and Zoning and Haw Creek Community members, to utilize the substance of this report in drawing up and implementing a comprehensive plan for the Haw Creek Study Area.

R2-A allows for the continued development of Haw Creek Valley in a manner agreeable to the residents of the Valley, with a density which will prevent congestion of our roads. It has become, in our minds, an essential element in developing a well-planned residential area. It is our contention that this type of community, with a comfortable rural/urban atmosphere, can and should become the strength of Asheville, serving to enhance the quality of life here as well as attract new growth. As such, R2-A is a zoning option which could benefit many parts of Asheville, not only Haw Creek Valley.

The proposed R-2A ordinance is as follows:

(PROPOSED)

R2-A LOW DENSITY SINGLE FAMILY RESIDENTIAL DISTRICT

The Low Density Single Family Residential District is intended as an area where the principal use is residences and any conflict between these uses and any other use of the land is at a minimum.

A. Uses Permitted: Within the single family low density residential district, a building or land shall be used only for the following: single family residences, neighborhood play grounds, home occupations, golf courses, community centers, public facilities, accessory buildings, greenhouses used as accessory buildings to the primary residence, public utilities, transmission lines, and utility substations (subject to the conditions of the group development review provided for in this ordinance).

B. Conditional Uses: Schools having curriculum the same as given in public schools, churches, mountain side residences not exceeding the height of the ridge line, and the conversion of existing apartments to condominiums.

Tuesday - June 4, 1985 - 4:00 p.m.

Regular Meeting

Present: Mayor Larry McDevitt, Presiding; Vice-Mayor Wilhelmina Bratton; Councilmen Mary Lloyd Frank, Norma T. Price, Walter R. Boland, and Louis Bissette; Corporation Counsel William F. Slawter; City Manager Neal Creighton; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Councilman Gordon Myers

INVOCATION

The invocation was given by Vice-Mayor Wilhelmina Bratton.

STATEMENT RELATIVE TO ALTERNATIVES FOR ASHEVILLE.

Councilman Norma Price read the following announcement:

The City of Asheville has begun an effort to develop a comprehensive plan which will provide direction for the future of the Asheville community.

Next Monday, June 10, is the first community meeting of six (6) meetings to be held in different areas of the City, that will ask for guidance from the Asheville community for this plan. Your ideas, thoughts, and suggestions are wanted. What do you want Asheville to be tommorrow? To find out how you can be heard on all the major issues facing the Asheville area WLOS-TV will present "Future Vision", a special report on the Alternatives for Asheville planning process. The special 1/2 hour report will air on Thursday, June 6 at 7:00 p.m. on Channel 13.

Also be sure to read this Sunday's Citizen-Times for a special feature on the future of Asheville and how you can participate.

On Sunday, Focus 21, WHNS TV's public affairs program will feature the "Alternatives for Asheville" process - What it is, how will it work - Who will do the planning -- This program airs at 11:00 a.m. on June 9. WKHS-Radio is also doing some very special programming on the need for community input at the Public Forums.

We commend the media in serving the community by promoting this planning effort. The exchange of information, ideas, and news is the most important element of any communities planning process.

Mayor McDevitt noted the time and place for the public meetings during June.

APPROVAL OF THE MINUTES - MAY 28, 1985 MEETING

1. Approval of the minutes of the May 28, 1985 meeting.

Mayor McDevitt announced the approval of the minutes as submitted.

review and discussion, the Commission voted to recommend to City Council that Ward 7, Sheet 27, Lot 42, be rezoned from LI Light Industrial District to E-3 Residential District. This ordinance was read on first reading on May 14, 1985, and on second reading on May 21, 1985.

Mayor McDevitt said this ordinance was previously read on first and second reading and would not be reread in its entirety unless there was a specific request to do so.

On a roll call vote of 6-0, Ordinance No. 1517, passed on third and final reading.

Complete text of Ordinance No. 1517 will be found in Ordinance Book No. 10 at page 272-273.

CLAIMS - ASHEVILLE CLEANERS (WATER) - ELEANOR THOMAS (WATER) - W. B. RIDDLE (WATER) - VIOLA THOMPSON (WATER)

The City Manager presented claims received from Asheville Cleaners, Eleanor Thomas, W. B. Riddle, and Viola Thompson.

Mayor McDevitt referred the claims to the Corporation Counsel for investigation and recommendation.

ADJOURNMENT

Councilman Frank moved to adjourn the meeting at 9:10 p.m. This motion was seconded by Councilman Bissette and carried unanimously.

Larry McDevitt
MAYOR

William F. Nolan
CITY CLERK

Gary Rowe, Attorney, representing various property owners on Sunset Mountain, also requested that the public hearing be postponed in order for him to prepare for his presentation to Council. However, he requested that the public hearing be readvertised, and that the public hearing be scheduled for July 2, 1985, since many of the property owners would be out of town on June 25.

Attorney Dameron said his client would have no problems with the public hearing being on July 2.

Vice-Mayor Bratton closed the public hearing at 4:40 p.m.

Councilman Price moved that the public hearing relative to the proposed "Sunset Pointe Condominiums" be rescheduled for July 2, 1985, and that the notice to the public relative to the public hearing be readvertised for that date. This motion was seconded by Councilman Boland and carried unanimously.

PUBLIC HEARING - REZONING PROPERTY ON NORTH BEAR CREEK ROAD

ORDINANCE NO. 1521 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE" AS AMENDED - PROPERTY LOCATED ON NORTH BEAR CREEK ROAD (MR. T. F. DULA PETITION)

4. A public hearing was held relative to rezoning property on North Bear Creek Road.

Mayor McDevitt said the Asheville Planning and Zoning Commission at a meeting held May 1, 1985 considered the petition of Mr. T. F. Dula that Ward 6, Sheet 20, Lot 69-1/2 be rezoned from LI Light Industrial District to R-3 Residential District. The property is located on North Bear Creek Road. After discussion, the Commission recommended that the property be rezoned as petitioned.

Mayor McDevitt opened the public hearing at 4:43 p.m.

The Clerk Clark presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said the purpose for the requested rezoning is that the owner wishes to construct a single-family residence on the property which is presently zoned LI Light Industrial, which prohibits single-family residences.

Upon inquiry of Councilman Bissette, Mr. Emrick said there were no oppositions expressed at the Planning and Zoning Commission meeting.

Mayor McDevitt closed the public hearing at 4:44 p.m.

Mayor McDevitt said members of Council were furnished copies of the ordinance and it would not be read in its entirety.

Councilman Boland moved for the adoption of Ordinance No. 1521. This motion was seconded by Councilman Price.

SWEARING IN OF POLICE OFFICERS

Mayor McDevitt administered the oath of office to 10 new police officers.

PROCLAMATION - JUNE 2-8, 1985 - "MANAGEMENT WEEK"

2. Mayor McDevitt read a proclamation proclaiming the week of June 2-8, 1985 as "Management Week".

Mayor McDevitt presented the proclamation to Randy Shores, with Square D and Larry Collins, Chairman of the Asheville Chapter of the Association of Management.

PROCLAMATION - WEEK OF JUNE 8, 1985 - "NATIONAL SAFE BOATING WEEK"

2A. Mayor McDevitt read a proclamation proclaiming the week of June 8, 1985 as "National Safe Boating Week".

Mayor McDevitt presented the proclamation to Mr. Phillips, with the Asheville Power Squadron, who is sponsoring "National Safe Boating Week".

PUBLIC HEARING - SITE PLAN OF PROPOSED "SUNSET POINT CONDOMINIUMS"

3. A public hearing was held relative to the site plan of the proposed "Sunset Pointe Condominiums" to be located on Town Mountain Road.

Mayor McDevitt said, as previously notified, his law firm represents the developer of the Sunset Pointe Condominiums, and in his opinion, he should not participate in discussion or voting on this issue. Corporation Counsel Slawter agreed with Mayor McDevitt.

Councilman Bissette moved to excuse Mayor McDevitt from discussion or voting on the proposed "Sunset Pointe Condominiums". This motion was seconded by Councilman Price and carried unanimously.

Mayor McDevitt relinquished the chair to Vice-Mayor Bratton.

Vice-Mayor Bratton opened the public hearing at 4:35 p.m.

Verl Emrick, Director of Planning said the Planning and Zoning Commission at a meeting held on April 17, 1985, reviewed the site plan of the proposed "Sunset Pointe Condominiums" to be located on Town Mountain Road. The plan was prepared by Freeman, Weels and Major, Architects, for W. R. Martin, Developer, both of Greenville, S. C. and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend denial of the site plan to City Council.

Ken Dameron, Attorney for the developer of the Sunset Pointe Condominiums, said on behalf of his client, he is requesting that the public hearing be continued until the June 25, 1985 Council meeting. He said his reasons for requesting the continuation is that the public notice of the meeting was misrepresented in the newspaper, and ~~the developer~~ he needs further opportunity to prepare for the presentation to be made to Council.

minutes amended 6-11-85 meeting pg. 180

Mayor McDevitt said this ordinance was previously read on first reading and would not be reread in its entirety unless there was a specific request to do so.

On a roll call vote of 6-0, Ordinance No. 1520 passed on second reading.

APPROVAL OF THE SALE OF DISPOSAL PARCELS 12 AND 105A IN THE EAST RIVERSIDE URBAN RENEWAL AREA

7. Consideration was given to a motion approving the sale of disposal parcels 12 and 105A in the East Riverside Renewal Area.

Mayor McDevitt said the Housing Authority has tentatively accepted the following bids for certain disposal parcels in the East Riverside Urban Renewal Area.

PARCEL	REUSE	PRICE	BID	REDEVELOPER
12	Residential	650.00	655.00	Phillip & Sharon Ruff
105A	Residential	8,575.00	8,775.00	Willie & Joann Reynolds

Lot 12 - located at South French Broad Avenue is a residential lot sale to an adjacent property owner to provide additional yard space. Appropriate landscaping will be done but no construction is planned.

Lot 105A - is located at John Street and is a residential lot sale for a single-family structure under the Incentive Housing Program.

Councilman Bissette moved to approve the sale of Disposal Parcels 12 and 105A in the East Riverside Urban Renewal Area as recommended by the Housing Authority. This motion was seconded by Councilman Price and carried unanimously.

RESOLUTION NO. 85-81 - RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN AN AGREEMENT BY AND BETWEEN THE CITY OF ASHEVILLE AND THE COUNTY OF BUNCOMBE - IDENTIFICATION BUREAU

8. Consideration was given to a resolution authorizing the City Manager to sign an agreement by and between the City of Asheville and the County of Buncombe relative to an Identification Bureau.

Mayor McDevitt said the City-County Radio and Identification Bureau Commission was created by Chapter 262 of the 1941 North Carolina Public Local Laws. Chapter 37 of the 1985 North Carolina Session Laws repeals Chapter 262 of the 1941 North Carolina Public Local Laws, effective May 1, 1985. On April 30, 1985, the representatives of the City-County Radio and Identification Bureau Commission executed a Grant and Release which transfers jointly all records and property held by the City-County Radio and Identification Bureau Commission to the City and County so as to allow the City and County to continue the operation of a joint bureau of identification in the County of Buncombe. The City of Asheville and the County of Buncombe intend to continue the operation of a joint bureau of identification in the County of Buncoube.

On a roll call vote of 6-0, Ordinance No. 1521 passed on first reading.

Mayor McDevitt requested that the City Clerk schedule on the agenda for June 11, 1985, the second, and possibly the third reading of Ordinance No. 1521, which was requested by the petitioner.

ORDINANCE NO. 1510 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED. - PROPERTY LOCATED ON GASHES CREEK AND I-40 (GEORGE BEVERLY PETITION)

5. Consideration was given to the second reading of Ordinance No. 1510, an ordinance amending Ordinance No. 322, known as "An ordinance providing for the zoning of the City of Asheville," as amended. - property located on Gashes Creek and I-40 (George Beverly Petition).

Mayor McDevitt said the Asheville Planning and Zoning Commission at a meeting held March 13, 1985, considered the request of Mr. George Beverly, Agent, that Ward 13, Sheet 33, Lot 68, and Ward 13, Sheet 34, Lot 11, be rezoned from R-2 Residential District to OI Office Institutional District. The property is known as Hemphill Knoll at Gashes Creek and I-40. After review and discussion, the Commission voted to recommend to City Council that a portion of Lot 68, Sheet 33, Ward 13, and a portion of Lot 11, Sheet 34, Ward 13, be rezoned from R-2 Residential District to OI Office Institutional District. This would leave a 100 foot strip of R-2 buffer on the southern border abutting the Blue Ridge Parkway and Lot 78, Sheet 33, Ward 13, and on the northwestern margin abutting Lots 37-1/4 and 8-1/4, Sheet 33, Ward 13. At the April 23, 1985 meeting the first reading of this ordinance was postponed until May 28, 1985. This ordinance was read on first reading on May 28, 1985.

Mayor McDevitt said this ordinance was previously read on first reading and would not be reread in its entirety unless there was a specific request to do so.

On a roll call vote of 6-0, Ordinance No. 1510 passed on second reading.

ORDINANCE NO. 1520 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED. - REZONING PROPERTY LOCATED AT THE NORTHWEST CORNER OF CHARLOTTE AND CHESTNUT STREETS (REQUESTED BY W. NEAL HANKS, AGENT).

6. Consideration was given to the second reading of Ordinance No. 1520, an ordinance amending Ordinance No. 322, known as "An ordinance providing for the zoning of the City of Asheville," as amended. - rezoning property located at the northwest corner of Charlotte and Chestnut Streeet (requested by W. Neal Hanks, Agent).

Mayor McDevitt said the Asheville Planning and Zoning Commission at a meeting held on April 17, 1985, considered the petition of Mr. W. Neal Hanks, Agent, that Ward 2, Sheet 26, portion of Lot 124, be rezoned from R-4 Residential District to CG Commercial General District. The property is located at the northwest corner of Charlotte and Chestnut Streets. This ordinance was read on first reading on May 28, 1985.

ORDINANCE NO. 1522 - BUDGET ORDINANCE AMENDMENT TO CARRY OUT SEWER PROJECTS FOR FISCAL 1985/86

11. Consideration was given to a budget ordinance amendment to carry out sewer projects for fiscal 1985/86.

Mayor McDevitt said this amendment will establish an appropriation in the amount of $1,832,443 to carry out sewer projects for Fiscal Year 1985/86.

Rick Harper, Administrative Assistant with the Water/Sewer Department, presented the Water and Sewer Department's proposed sewer master plan. He said the plan consists of 29 projects that are desperately needed in the City of Asheville to address problems of inadequate sewer. He said the projects have been rated into 4 priorities, with priorities 1 and 2 being projects that will stop unsanitary conditions and upgrading of the system. He said priorities 3 and 4 would consist of replacements of existing sewers in new growth areas.

He explained the funding available to carry out the plan at a total cost of $1,810,350.00.

Upon inquiry of Council, Mr. Harper said priorities 1 and 2 would be completed during Fiscal Year 1985/86, and priorities 3 and 4 would be completed in Fiscal Year 1986/87. He presented a map outlining the projects to be completed.

Mayor McDevitt noted that adoption of this budget amendment would incorporate the approval of the Sewer Master Plan.

Councilman Boland moved for the adoption of Ordinance No. 1522. This motion was seconded by Councilman Frank.

On a roll call vote of 6-0, Ordinance No. 1522 passed on first and final reading.

Complete text of Ordinance No. 1522 will be found in Ordinance Book No. 10 at Page 280.

1985 CIVIL SERVICE BOARD ELECTION - WALTER RUBY, JR. AND RAYMOND B. STEPP

The City Manager said pursuant to Section 2 of the Civil Service Law (Chapter 757 of the 1953 Session Laws, as amended, of the North Carolina General Assembly), the Civil Service Board election was held on Thursday, May 30, 1985. There were two (2) declared candidates, Walter Ruby, Jr. and Raymond B. Stepp. Messrs. Ruby and Stepp were certified as the winners of the election, by the Board of Canvassers, on Friday, May 31, 1985.

The official tabulation of the votes cast is:

Walter Ruby, Jr.	207
Raymond B. Stepp	200
Write-In Candidates	13

Mayor McDevitt said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Frank, seconded by Councilman Boland, Resolution No. 85-81 was unanimously adopted.

Complete text of Resolution No. 85-81 will be found in Resolution Book No. 15 at page 217.

RESOLUTION NO. 85-82 - RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN A LEASE AGREEMENT WITH AIRCALL, INC. FOR LEASING OF RADIO TOWER SPACE AT WHITE FAWN RESERVOIR.

9. Consideration was given to a resolution authorizing the City Manager to sign a lease agreement with Aircall, Inc. for leasing of radio tower space at White Fawn Reservoir.

Mayor McDevitt said the City of Asheville owns and maintains a 180 foot self-supporting tower at White Fawn Reservoir for accommodating two-way FM radio transmitters and antenna. This agreement will allow Aircall, Inc. (Paging System) to lease space on White Fawn Radio Tower. This will generate about $1,200.00 annually in revenue for the City. It will cost the City about $13.60 per month to provide electrical service.

Mayor McDevitt said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Price, seconded by Councilman Frank, Resolution No. 85-82 was unanimously adopted.

Complete text of Resolution No. 85-82 will be found in Resolution Book No. 15 at page 218.

RESOLUTION NO. 85-83 - RESOLUTION AUTHORIZING THE CLOSING OF A PORTION OF WALL STREET FOR A STREET FESTIVAL

10. Consideration was given to a resolution authorizing the closing of a portion of Wall Street for a street festival.

Mayor McDevitt said Wall Street and Battery Park Avenue Merchants Association is planning a street festival on Saturday, June 8, 1985. The Merchants Association has requested that a portion of Wall Street, from 46 Wall Street (Asheville Music Hall) to the intersection of Battery Park Avenue, be closed from 11:00 a.m. until 8:00 p.m. The closing of this portion of Wall Street will not create any undue hardship or inconvenience for residents of the area.

Mayor McDevitt said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Price, seconded by Councilman Frank, Resolution No. 85-83 was unanimously adopted.

Complete text of Resolution No. 85-83 will be found in Resolution Book No. 15 at page 219.

Tuesday - June 11, 1985 - 4:00 p.m.

Regular Meeting

Present: Mayor Larry McDevitt, Presiding; Vice-Mayor Wilhelmina Bratton; Councilmen Mary Lloyd Frank, Norma T. Price, Walter R. Boland, and Louis Bissette; Acting Corporation Counsel Patsy Brison; City Manager Neal Creighton; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Councilman Gordon Myers; Corporation Counsel William F. Slawter.

Mayor McDevitt - arriving later in meeting.

INVOCATION

The invocation was given by Councilman Mary Lloyd Frank.

APPROVAL OF THE MINUTES - June 4, 1985 MEETING

1. Approval of the minutes of the June 4, 1985, meeting.

Patsy Brison, Acting Corporation Counsel, requested that the minutes of the June 4, 1985, meeting, page 173, last paragraph, reflect that the Attorney for the Developer of the Sunset Point Condominiums was Penn Dameron instead of Ken Dameron; and that the last sentence of the paragraph should state that he (the Attorney) needs further opportunity to prepare for the presentation to be made to Council, rather than the Developer.

Councilman Boland moved to approve the minutes of the June 4, 1985, meeting as amended. This motion was seconded by Councilman Bissette and carried unanimously.

BUNCOMBE ALTERNATIVES - RECOGNITION OF ANTHONY WILLIS

Councilman Frank introduced Mary Murray, Executive Director of Buncombe Alternatives who recognized Anthony Willis from England who is participating in the U.S. Kingdom Exchange Project in conjunction with Buncombe Alternatives.

PROCLAMATION - RAPE PREVENTION MONTH - JUNE, 1985

2. Vice-Mayor Bratton read the proclamation proclaiming the month of June, 1985, as "Rape Prevention Month."

Vice-Mayor Bratton presented the proclamation to Cassandra Provone with the Rape Crisis Center for Asheville.

Councilman Price said it was her privilege to sit on the Board for the Rape Crisis Center in Asheville, N.C. She said this Center provides educational and emotional support for rape victims. She said she hoped this proclamation will increase the emphasis on the problem and turn our statistics around. She said she was very pleased with the Asheville Center for our community.

On Monday, June 3, 1985, the four (4) incumbent Board Members (Thomas Posey, Walter Ruby, Raymond Stepp and Wade Thomas) met and selected, by unanimous vote, Mrs. Sheila Fellerath to be the fifth member of the Board. Mrs. Fellerath, Mr. Ruby and Mr. Stepp, who will each serve a two-year term, were members of the Civil Service Board prior to the election.

RALPH BISHOP - LOTTERY SALES

Ralph Bishop spoke to members of Council relative to lottery sales in the City of Asheville.

ADJOURNMENT

Mayor McDevitt said Council would go into a work session and executive session to discuss legal, personnel and real estate matters after the Council meeting.

Upon motion of Councilman Frank, seconded by Councilman Price, the meeting adjourned at 5:10 p.m.

Lou McDevitt
MAYOR

William J. Nalencz
CITY CLERK

Vice-Mayor Bratton said this ordinance was previously read on first and second reading and would not be reread in its entirety unless there was a specific request to do so.

On a roll call vote of 5-0, Ordinance No. 1510 passed on third and final reading.

Complete text of Ordinance No. 1510 will be found in Ordinance Book No. 10 at page 259-260.

ORDINANCE NO. 1520 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE" AS AMENDED - PROPERTY LOCATED AT NORTHWEST CORNER OF CHARLOTTE AND CHESTNUT STREETS (NEAL HANKS)

5. Consideration was given to the second reading of Ordinance No. 1520, an ordinance amending Ordinance No. 322, known as "An ordinance providing for the zoning for the City of Asheville" as amended - property located at northwest corner of Charlotte and Chestnut streets (Neal Hanks).

Vice-Mayor Bratton said the Asheville Planning and Zoning Commission at a meeting held on April 17, 1985, considered the petition of Mr. W. Neal Hanks, Agent, that Ward 2, Sheet 26, portion of Lot 124, be rezoned from R-4 Residential District to CG Commercial General District. The property is located at the northwest corner of Charlotte and Chestnut streets. This ordinance was read on first reading on May 28, and on second reading June 4, 1985.

Vice Mayor Bratton said this ordinance was previously read on first and second reading and would not be reread in its entirety unless there was a specific request to do so.

On a roll call vote of 5-0, Ordinance No. 1520 passed on third and final reading.

Complete text of Ordinance No. 1510 will be found in Ordinance Book No. 10 at page 277-278.

BIDS - CORRUGATED STEEL PIPE FOR PUBLIC WORKS

6. Consideration was given to bids received for corrugated steel pipe for Public Works Department, Street Division.

Vice-Mayor Bratton said sealed bids were received to furnish the Street Division with 48", 15", 18" and 12" corrugated steel pipe and 48" band couplers. Four (4) bids were received. The Public Works Director has reviewed the bids and recommends awarding a contract to the low bidder, Armco, Inc., Asheville, N.C. in the amount of $12,925.70. Funds for this purchase are available in the Public Works, Street Division appropriation (Account Code 10-427-038).

ORDINANCE NO. 1521 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE" AS AMENDED - PROPERTY LOCATED ON NORTH BEAR CREEK ROAD (MR. T. F. DULA PETITION)

3. Consideration was given to the second reading of Ordinance No. 1521, an ordinance amending Ordinance No. 322, known as "An ordinance providing for the zoning for the City of Asheville" as amended - property located on North Bear Creek Road (Mr. T. F. Dula petition.)

Vice-Mayor Bratton said the Asheville Planning and Zoning Commission at a meeting held May 1, 1985, considered the petition of Mr. T. F. Dula that Ward 6, Sheet 20, Lot 69-1/4 be rezoned from LI Light Industrial District to R-3 Residential District. The property is located on North Bear Creek Road. After discussion, the Commission recommended that the property be rezoned as petitioned. This ordinance was read on first reading on June 4, 1985.

Vice-Mayor Bratton said this ordinance was previously read on first reading and would not be reread in its entirety unless there was a specific request to do so.

On a roll call vote of 5-0, Ordinance No. 1521 passed on second reading.

Councilman Price moved to suspend the rules and proceed to the third reading of Ordinance No. 1521. This motion was seconded by Councilman Frank and carried unanimously.

On a roll call vote of 5-0, Ordinance No. 1521 passed on third and final reading.

Complete text of Ordinance No. 1521 will be found in Ordinance Book No. 10 at page 278-279.

ORDINANCE NO. 1510 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE" AS AMENDED - PROPERTY LOCATED ON GASHES CREEK AND I-40 (GEORGE BEVERLY PETITION)

4. Consideration was given to the third reading of Ordinance No. 1510, an ordinance amending Ordinance No. 322, known as "An ordinance providing for the zoning for the City of Asheville" as amended - property located on Gashes Creek and I-40 (George Beverly petition.)

Vice-Mayor Bratton said the Asheville Planning and Zoning Commission at a meeting held March 13, 1985, considered the request of Mr. George Beverly, Agent, that Ward 13, Sheet 33, Lot 68, and Ward 13, Sheet 34, Lot 11, be rezoned from R-2 Residential District to OI Office Institutional District. The property is known as Hemphill Knoll at Gashes Creek and I-40. After review and discussion, the Commission voted to recommend to City Council that a portion of Lot 68, Sheet 3, Ward 13, and a portion of Lot 11, Sheet 34, Ward 13, be rezoned from R-2 Residential District to OI Office Institutional District. This would leave a 100 foot strip of R-2 buffer on the southern border abutting the Blue Ridge parkway and Lot 78, Sheet 33, Ward 13, and on the northwestern margin abutting Lots 37-1/4 and 8-1/4, Sheet 33, Ward 13. At the April 23, 1985, meeting, the first reading of this ordinance was postponed until May 28, 1985. This ordinance was read on first reading on May 28, and on second reading June 4, 1985.

Funds are available within the Riverside Cemetery budget for this service. The fee is $100.00 per grave. Also, the City has the right to request on an "as needed basis" inurnments, at a rate of $25.00 each.

Vice-Mayor Bratton said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Price, seconded by Councilman Frank, Resolution No. 85-84 was unanimously adopted.

Complete text of Resolution No. 85-84 will be found in Resolution Book No. 15 at page 220.

RESOLUTION NO. 85-85 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH CLEAR DAY, INC. FOR PROFESSIONAL WINDOW CLEANING SERVICE FOR THE CITY HALL BUILDING

9. Consideration was given to a resolution authorizing the City Manager to enter into an agreement with Clear Day, Inc. for professional window cleaning service for the City Hall Building.

Vice-Mayor Bratton said the City of Asheville has determined that it would be beneficial to contract window cleaning service. Twenty-six (26) bid requests were sent to prospective vendors with only two (2) companies returning bids. It is recommended to award the contract to Clear Day, Inc. as they were the lowest responsible bidder.

Funds are available within the operating budget for the custodial project for a one time cleaning interior and exterior of windows - $1,400.00.

Vice-Mayor Bratton said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Bissette, seconded by Councilman Price, Resolution No. 85-85 was unanimously adopted.

Complete text of Resolution No. 85-85 will be found in Resolution Book No. 15 at page 221.

RESOLUTION NO. 85-86 - RESOLUTION AUTHORIZING THE PURCHASING DIRECTOR TO DISPOSE OF CERTAIN PERSONAL PROPERTY VALUED AT LESS THAN $5,000 BY PRIVATE NEGOTIATION AND SALE (TURN OUT GEAR FOR THE FIRE DEPARTMENT)

10. Consideration was given to a resolution authorizing the Purchasing Director to dispose of certain personal property valued at less than $5,000 by private negotiation and sale (turn out gear from the Asheville Fire Department).

Vice-Mayor Bratton said N.C. Gen. Stat. Sec. 160A-226 provides that a municipality may dispose of personal property valued at less than $5,000 for any one item or group of similar items by private negotiation and sale. The Asheville Fire Department has accumulated assorted firefighter "turn out gear" consisting of 119 helmets, 123 coats, 142 pants and 20 face shields and has declared such property to be nonuseable surplus personal property. The entire group of items are valued at less than $5,000. This sale will generate approximately $5,000 in revenues.

Larry Ward with the Public Works Department said there were four (4) bids received which were as follows:

BIDDER	BID
Armco, Inc.	$12,925.70
Silverman Company	$13,451.25
Municipal and Utilities	$13,674.24
Republic Drainage	$14,863.15

Councilman Price moved to award the contract to the low bidder, Armco, Inc. in the amount of $12,925.70. This motion was seconded by Councilman Bissette and carried unanimously.

BIDS - SALT AND SAND SPREADERS - PUBLIC WORKS DEPARTMENT, STREET DIVISION

7. Consideration was given to bids for four (4) each salt and sand spreaders for the Public Works Department, Street Division.

Vice-Mayor Bratton said sealed bids were received to furnish four (4) each salt and sand spreaders for the Public Works Department, Streets Division. Five (5) bids were received. Clark Brown, Public Works Director has reviewed the bids and recommends a contract be awarded to Gimco International, Inc., Monroe, N.C. in the amount of $24,909.52. Funds for this purchase are available in the Public Works, Street Division appropriation (Account Code 50-427-074).

Larry Ward, with the Public Works Department, presented the bids as follows:

BIDDER	BID
N. C. Equipment, Asheville, N.C.	$25,980.00
N. C. Equipment, Asheville, N.C.	$27,976.00
Gimco International, Monroe, N.C.	$24,909.52
Arden Equipment, Arden, N.C.	$29,995.00
Public Works Equipment, Monroe, N.C.	$28,552.00

Councilman Frank moved to award the bid to Gimco International, Inc. in the amount of $24,909.52. This motion was seconded by Councilman Bissette and carried unanimously.

RESOLUTION NO. 85-84 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A SERVICE AGREEMENT FOR OPENING AND CLOSING GRAVES AT RIVERSIDE CEMETERY

8. Consideration was given to a resolution authorizing the City Manager to enter into a service agreement for opening and closing of graves at Riverside Cemetery.

Vice-Mayor Bratton said the City of Asheville Parks, Recreation and Public Facilities Department desires to enter into a service agreement to provide for the opening and closing of graves at Riverside Cemetery. American Vault Company has provided these services in a satisfactory manner since September, 1982, and will continue to do so for FY 1985/86 for the same fees.

Complete text of Resolution No. 85-88 will be found in Resolution Book. No. 15 at page 224.

RESOLUTION NO. 85-89 - RESOLUTION AUTHORIZING THE CLOSING OF ALCLARE COURT FOR NEIGHBORHOOD BLOCK PARTY

13. Consideration was given to a resolution authorizing the closing of Alclare Court for a neighborhood block party.

Mayor McDevitt said the residents of Alclare Court are planning a Neighborhood Block Party on Saturday, June 29, 1985. The residents have requested that Alclare Court be closed from 3:00 P.M. until 12:00 midnight. This closing will not create any hardship or inconvenience for residents of the area.

Mayor McDevitt said members of Council are furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Bissette, seconded by Councilman Price, Resolution 85-89 was unanimously adopted.

Complete text of Resolution 85-89 will be found in Resolution Book No. 15 at page 225.

CLAIMS - RUTH BRIDGES (WATER) - CONTRACT CARPETS (WATER) - LUNETA DAVIS (WATER) - JOHN FRYE (STREETS) - GAIL HIPSHIRE (SEWER) - CHERYL HAHN (PARKS AND RECREATION) - SHERLYN ALLEN (PARKS AND RECREATION)

The City Manager presented claims received from Ruth Bridges, Contract Carpets, Luneta Davis, John Frye, Gail Hipshire, Cheryl Hahn, and Sherlyn Allen.

Mayor McDevitt referred the claims to the Corporation Counsel for investigation and recommendation.

LAWSUITS - DAVID AND RACHEL MILLER VS. CITY OF ASHEVILLE (DAMAGE TO PROPERTY) - JUDY ANN HENSLEY VS. CITY OF ASHEVILLE (BODILY INJURY)

The City Manager said the City was served with summonses in connection with lawsuits involving David and Rachel Miller vs. City of Asheville relative to damage to property due to alleged negligence in maintenance of storm drainage system and Judy Ann Hensley vs. City of Asheville relative to bodily injury - alleged negligence in maintenance of water meter lid.

Mayor McDevitt referred the summonses to the Corporation Counsel for investigation and recommendation.

Vice-Mayor Bratton said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Frank, seconded by Councilman Bissette, Resolution No. 85-86 was unanimously adopted.

Complete text of Resolution No. 85-86 will be found in Resolution Book No. 15 at page 222.

Mayor McDevitt arrived at the meeting at 4:35 p.m.

RESOLUTION NO. 85-87 - RESOLUTION AUTHORIZING THE MAYOR TO SIGN AN AGREEMENT WITH SKYLAND VOLUNTEER FIRE DEPARTMENT, INC. FOR FIRE PROTECTION SERVICES IN THE AIRPORT ANNEXATION AREA

11. Consideration was given to a resolution authorizing the Mayor to sign an agreement with the Skyland Volunteer Fire Department, Inc. for fire protection services in the Airport annexation area.

Mayor McDevitt said the area surrounding the Asheville Airport was annexed to the City April 2, 1979. The City is thereby required to provide fire protection for this area. The Skyland Volunteer Fire Department, Inc., has agreed to provide primary fire protection services under contract with the City for the Airport annexation area. He said the contract is authorized by N.C. General Statute Section 69-25.14. Skyland will provide contracted protection for a fee of $4,800.00 for 1985-86. These funds have been requested in the FY 1985-86 budget.

Mayor McDevitt said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Boland, seconded by Councilman Frank, Resolution No. 85-87 was unanimously adopted.

Complete text of Resolution No. 85-87 will be found in Resolution Book No. 15 at page 223.

RESOLUTION NO. 85-88 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT FOR LOSS PREVENTION SERVICES WITH POINSETT SELF-INSURANCE SALES AND SERVICE

12. Consideration was given to a resolution authorizing the City Manager to enter into an agreement for loss prevention services with Poinsett Self-Insurance Sales and Service.

Mayor McDevitt said this will renew our existing agreement for loss prevention services with Poinsett Self-Insurance for our Worker's Compensation program. Cost of the agreement is $6,500.00 and is budgeted for FY 1984/85.

Mayor McDevitt said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Frank, seconded by Councilman Boland, Resolution No. 85-88 was unanimously adopted.

June 11, 1985

The Honorable Larry S. McDevitt
Mayor, City of Asheville
Post Office Box 7148
Asheville, North Carolina 28807

Dear Mayor McDevitt:

The Housing Authority of the City of Asheville has adopted a Resolution authorizing the sale of certain real estate located in the South Pack Plaza Redevelopment Project to Pack Plaza Associates Limited Partnership, subject to final approval of the sale and conveyance by the City Council of the City of Asheville. A copy of the Resolution adopted by the Commissioners of the Housing Authority which describes the real estate proposed to be sold, the terms and conditions of the sale, and the proceedings held prior to adoption of the Resolution is enclosed.

The Housing Authority respectfully requests that the City Council of the City of Asheville consider this matter and take such action as it finds appropriate.

HOUSING AUTHORITY OF THE CITY OF ASHEVILLE

BY: _____
Chairman

Enclosure

RESOLUTION AUTHORIZING SALE OF LAND TO PACK PLAZA ASSOCIATES LIMITED PARTNERSHIP

WHEREAS, the Housing Authority of the City of Asheville, acting in its capacity as a redevelopment commission, has prepared, approved, and adopted a Redevelopment Plan (hereinafter called the Redevelopment Plan) for the Pack Plaza Redevelopment area (hereinafter called the Redevelopment Project), on July 2, 1984; and

WHEREAS, the City Council of the City of Asheville has approved and adopted the Redevelopment Plan for the Project on July 24, 1984; and

WHEREAS, a copy of the Redevelopment Plan and proceedings pertaining thereto is recorded in the Office of the Register of Deeds of Buncombe County, North Carolina, in Deed Book 1383 at Page 391; and

WHEREAS, the Housing Authority of the City of Asheville has proceeded with and is proceeding with the implementation of the Redevelopment Plan and has acquired portions of Disposal Parcels 1 and 2 and all of Disposal Parcel 3 as shown on the property disposal map which is a part of the Redevelopment Plan, and a copy of which map is attached to and incorporated in this Resolution as Exhibit A; and

PROCLAMATION - JUNE 14, 1985 - "FLAG DAY"

Mayor McDevitt proclaimed June 14, 1985, as "Flag Day" in the City of Asheville.

PROCLAMATION - "BUZZ PETERSON DAY" - June 11, 1985

Mayor McDevitt proclaimed Tuesday, June 11, 1985, as "Buzz Peterson Day."

COUNCIL RECESS

Vice-Mayor Bratton moved that the meeting be recessed until 5:00 p.m. to discuss the 1985-86 budget. This motion was seconded by Councilman Frank and carried unanimously.

RESOLUTION NO. 85-90 - RESOLUTION APPROVING THE SALE AND CONVEYANCE OF CERTAIN PROPERTIES LOCATED IN THE PACK PLAZA REDEVELOPMENT AREA BY THE ASHEVILLE HOUSING AUTHORITY TO PACK PLAZA ASSOCIATES LIMITED PARTNERSHIP

14. Consideration was given to a resolution authorizing the sale and conveyance of certain properties located in the Pack Plaza Redevelopment area from the Asheville Housing Authority to Pack Plaza Associates Limited partnership.

Mayor McDevitt said the Asheville Housing Authority has acquired certain properties pursuant to the implementation of the redevelopment plan for the Pack Plaza Redevelopment area. The Asheville Housing Authority has held a public hearing and made certain findings in order to convey certain parcels in the Pack Plaza Redevelopment area to a prospective developer. This resolution will authorize the sale and conveyance of those properties of the Pack Plaza Redevelopment area under the terms and conditions set forth in the resolution of the Asheville Housing Authority. The funds extended for this conveyance is pursuant to the City/County loan in the Master Agreement and funds have already been budgeted.

Larry Holt, Executive Director of the Asheville Housing Authority, read the following letter and resolution from the Housing Authority of the City of Asheville.

3. The Housing Authority of the City of Asheville finds that the proposed use or development of the real property described in Exhibit B by Pack Plaza Associates Limited Partnership will assure that said property will not remain unused for an unduly long period and will result in a return to the City of Asheville and County of Buncombe ad valorem tax rolls at a substantially greated assessed valuation and at an earlier date than uses or redevelopment obtained by other methods of disposition.

4. The Housing Authority of the City of Asheville finds that the fair, actual value of the real property described in Exhibit B is One Million One Hundred Fifty-Two Thousand Two Hundred Dollars ($1,152,200.00)

5. That the real property described in Exhibit B shall be sold at private sale to Pack Plaza Associates Limited Partnership at a purchase price of One Million Two Hundred Seven Thousand Five Hundred Twenty-Two Dollars and Eighty-Five Cents ($1,207,522.85), which purchase price the Housing Authority of the City of Asheville finds to be not less than the fair, actual value of said real estate.

6. That the Chairman and Secretary be, and they are hereby, authorized to execute, attest, seal, acknowledge, and deliver any and all documents and writings necessary to effectuate the sale of said real estate to Pack Plaza Associates Limited Partnership, including, but not liited to, a contract for the sale and purchase of said real estate and a deed for said real estate, in such form as may be approved by the Chairman, Secretary, and attorney of the Housing Authority of the City of Asheville.

7. That this resolution is subject to final approval of the sale and/or conveyance of such real estate by the City Council of the City of Asheville.

8. That this Resolution shall be effective upon adoption.

I move the adoption of the foregoing Resolution:

Hunter B. Watson
Commissioner

Seconded by: Phillip F. Crouch
Commissioner

Read, approved, and adopted this 11th day of June, 1985.

Margaret M. Shook
Vice-Chairman

ATTEST:

David Jones, Jr.
Secretary

WHEREAS, the real property which constitutes portions of Disposal Parcels 1 and 2 and all of Disposal Parcel 3 and which is the subject of this Resolution is described on Exhibit B attached to and incorporated in this Resolution; and

WHEREAS, the Housing Authority of the City of Asheville is authorized by Chapter 317 of the 1979 Session Laws enacted by the General Assembly of North Carolina to sell property within redevelopment areas at private sale, and the Housing Authority of the City of Asheville is proceeding with the sale of the real property described in Exhibit B of this Resolution pursuant to Sections 2 and 4 of said Chapter 317; and

WHEREAS, the real property described in Exhibit B of this Resolution has been appraised by William T. Duckworth, Jr., MAI, SREA, who is a qualified real estate appraiser, and the fair, actual value of said real property has been appraised by Mr. Duckworth at One Million One Hundred Fifty-Two Thousand Two Hundred Dollars ($1,152,200.00); and

WHEREAS, the contemplated use of said real property is set forth in the Redevelopment Plan; and

WHEREAS, Pack Plaza Associates Limited Partnership, a Maryland limited partnership, wishes to purchase said real property at private sale; and

WHEREAS, the Housing Authority of the City of Asheville has, on May 24, 1985, authorized the holding of a public hearing on June 11, 1985, regarding the private sale of said real estate to Pack Plaza Associates limited partnership and has caused notice of such public hearing to be published in The Asheville Citizen-Times, a newspaper published in the City of Asheville and Buncombe County, for two successive calendar weeks, with the first such publication having been made on May 27, 1985, and the second such publication having been made on June 3, 1985; and

WHEREAS, the Housing Authority of the City of Asheville has, at its June 11, 1985, meeting conducted a public hearing regarding the proposed sale of said real estate to Pack Plaza Associates Limited Partnership and has received and considered the information submitted at said public hearing.

NOW, THEREFORE BE IT RESOLVED by the Housing Authority of the City of Asheville as follows:

I. That the Housing Authority of the City of Asheville finds that Pack Plaza Associates Limited Partnership is the only known available, qualified and willing developer for the contemplated use of the real property described in Exhibit B of this Resolution provided for in the Redevelopment Plan.

2. The Housing Authority of the City of Asheville finds that the use or development of the real property described in Exhibit B proposed by Pack Plaza Associates Limited Partnership is reasonably necessary in order to assure development which will have the desired beneficial effect upon neighborhood property, the redevelopment project, and the community as a whole.

1985, may still do so provided they file a written request on or before June 28, 1985. A form will be provided for this purpose. The option is effective for the fiscal year ending 1986 only. If selected, longevity shall be paid according to current policy and therefore would not be added to base pay in calculating performance increases during fiscal year ending 1986. The request, once made, is irrevokable." He said the Asheville Municipal Credit Union would be offering a variety of savings programs during 1986 for automatic payroll deductions for those employees who wish to receive a separate check during the Christmas season.

Mr. Wurst also explained the proposed new group health insurance program which would contain several cost containment features such as outpatient surgery and pre-admission certification.

At the request of several Council members, Mr. Wurst said he would present a form to the employees to select one of two options relative to their longevity pay.

Upon inquiry of Councilman Price, Mr. Wurst explained the group health insurance that would be available to the pre-65 retirees.

Mayor McDevitt asked if there were any comments from non-employee members of the public. There being no comments from non-employee members, Mayor McDevitt opened the floor for employee comments on the 1985/86 budget.

David Anders, President of the Asheville Firefighters Association, objected to the new pay plan method of receiving salary increases stating that this would result in favoritism, poor morale, and an increase in employee grievances. He said he did not think this would be advantageous to the employees. He said in particular, he did not think that the merit raise system was going to be satisfactory. He said this was the main concern of the Firemen. He said the Firemen feel the performance pay plan is totally unacceptable and that the City of Asheville would see more dissent and grievances that at any time in the City's history. He said it was unfair for supervisors or department heads to determine what increases his subordinates should receive because there may be personality conflicts between some supervisors and workers and close relationships or friendships between others that affect the supervisor's judgement on raises. He said as to the proposed group healh insurance plan, he did not see any reason why the City could not afford better health care benefits.

James Woody, Company Commander, with the Asheville Fire Department, presented members of Council with a memo showing pay discrepancies within the Asheville Fire Department.

Brenda DeBruhl with the Water Department, said she was concerned that an older employee could sometimes make less than a younger employee with this particular pay plan.

Mr. Horace Tower with the Asheville Police Department asked if the present proposed budget had a cost of living increase for the City employees. Mr. Wurst replied to Mr. Tower that it did not.

Mr. Holt described the property to be conveyed as the ABC Store on South Market Street, the Cochran property on Eagle Street, Barber Shop and Reliable Loan Company on Biltmore Avenue, the Bunn property on Biltmore Avenue, the Jones property on Biltmore Avenue, the Fotos property on Pack Square, the Plaza Theater, the Bassett property on the Square, the Brown property on the Square, and the Adler property on the Square. He said the price to be received from the conveyance of the property is $1,207,522.85. He said this is not less than the fair market value of $1,152,200 which was appraised by the W. T. Duckworth Company.

Mike Panyard, with the Pack Plaza Associates Limited Partnership said he was looking forward to the project with anticipation.

Mayor McDevitt said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Vice-Mayor Bratton, seconded by Councilman Frank, Resolution No. 85-90 was unanimously adopted.

Complete text of Resolution No. 85-90 will be found in Resolution Book No. 15 at page 226.

At the request of the Acting Corporation Council, Councilman Frank moved to amend Resolution No. 85-90 to include in the second "WHEREAS" that this would be pursuant to Sections 2 and 4 of the 1979 Session Laws. This motion was seconded by Councilman Bissette and carried unanimously.

PUBLIC HEARING - 1985-86 - ANNUAL OPERATING BUDGET

ORDINANCE NO. 1523 - AN ORDINANCE ADOPTING THE OPERATING BUDGET AND FIXING THE TAX RATE OF THE CITY OF ASHEVILLE FOR THE FISCAL YEAR 1985/86

15. A public hearing was held relative to the 1985-86 Annual Operating Budget.

Mayor McDevitt opened the public hearing at 5:16 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Bob Wurst, Director of Audit and Budget, outlined the proposed 1985-86 budget stating that the budget is presented with a 59¢ tax rate per $100 assessed valuation.

Mr. Wurst explained the new pay/performance plan which would be adopted as a part of the 1985/86 budget. He said the City staff would be implementing and planning for a full performance graded system. He said the performance system would be based on unsatisfactory to outstanding with some employees receiving more than 5% and some receiving less than 5%. He said City Council would set annually the amount an employee would receive at the mid-point salary range. He said this proposed budget maintains longevity for City employees in a different form. He said longevity pay would be added to an employee's base salary. He said due to concerns of the employees this year, an administrative recommendation would be that "any employee who is currently eligible to receive a lump-sum payment for longevity in December,

Tuesday - June 18, 1985 - 4:00 p.m.

Regular Meeting

Present: Mayor Larry McDevitt, Presiding; Vice-Mayor Wilhelmina Bratton; Councilmen Mary Lloyd Frank, Norma T. Price, Gordon Myers, Walter R. Boland, and Louis Bissette; Corporation Counsel William F. Slawter; City Manager Neal Creighton; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: None

CITY RESOLUTION NO. 85-91 - COUNTY RESOLUTION NO. 18173 - JOINT RESOLUTION OF THE CITY OF ASHEVILLE AND THE COUNTY OF BUNCOMBE EXPRESSING SUPPORT AND CONCERN FOR DR. RICHARD Y. MOON AND THE OTHER HOSTAGES CURRENTLY BEING HELD

Consideration was given to a joint resolution of the City of Asheville and the County of Buncombe expressing support and concern for Dr. Richard Y. Moon and the other hostages currently being held.

Doris Giezentanner, Vice-Chairman for the Buncombe County Board of Commissioners, read the resolution.

Upon motion of Vice-Mayor Bratton, seconded by Councilman Boland, Resolution 85-91 was unanimously adopted.

Complete text of Resolution No. 85-91 will be found in Resolution Book No. 15 at page 227 and 228.

Commissioner Ledbetter moved that a copy of the Resolution be sent to the President. This motion was seconded by Vice-Mayor Bratton and carried unanimously.

Mayor McDevitt dispensed with the normal invocation of the City Council meeting and called for a moment of silence in honor of the hostages.

APPROVAL OF THE MINUTES - JUNE 11, 1985 MEETING

1. Approval of the minutes of the June 11, 1985 meeting.

Mayor McDevitt announced the approval of the minutes as submitted.

PROCLAMATION - "DEPARTMENT OF PARKS, RECREATION, AND PUBLIC FACILITIES VOLUNTEER RECOGNITION DAY IN THE CITY OF ASHEVILLE" - JUNE 18, 1985

2. Mayor McDevitt read a proclamation proclaiming June 18, 1985 as "Department of Parks, Recreation, and Public Facilities Volunteer Recognition Day in the City of Asheville".

Mayor McDevitt presented a copy of the resolution to Ray Kisiah, Director of Parks, Recreation and Public Facilities, and recognized Hazel Robinson, Director of the Montford Recreation Center who was named the "Outstanding Volunteer of the Year".

Mayor McDevitt closed the public hearing at 6:33 p.m.

Upon inquiry of Mayor McDevitt, the City Manager and Sam Graves, Director of Management Services, said the City staff is looking into isolated cases of pay discrepancies.

A discussion was held relative to pay discrepancies.

Vice-Mayor Bratton said she did not think information was getting to the employees from the Department Heads. She asked if a measurement tool was in place to objectively make job performance evaluations.

In response to Vice-Mayor Bratton, Mr. Graves said there would be a year-long training process for supervisors to fairly analyze performance of an employee. He said criteria would be developed for supervisors to use.

Councilman Price said after the criteria is established, she felt this should be reviewed by Council before being implemented.

Councilman Frank said she hoped if there are employees out of step with the pay plan, the corrections would be made fairly.

Upon inquiry of Councilman Bissette, Mr. Graves said pay increases would be given on an employees anniversary date.

Councilman Frank moved for the adoption of Ordinance No. 1523. This motion was seconded by Councilman Bissette.

On a roll call vote of 6-0, Ordinance No. 1523 passed on first reading.

ADJOURNMENT

Upon motion of Vice-Mayor Bratton, seconded by Councilman Frank, the meeting adjourned at 7:15 p.m.

Jay McDevitt
MAYOR

William D. Malcott
CITY CLERK

Mayor McDevitt left the meeting with Vice-Mayor Bratton presiding.

In response to a question of Mr. Ralph Bishop, Clark Brown, Director of Public Works, said the problem with Murdock Avenue is the installation of a sewer line and it would be corrected. He also said that Aston Street is on the priority list for improvements.

Vice-Mayor Bratton said this Ordinance was previously read on first reading and would not be reread in its entirety unless there was a specific request to do so.

On a roll call vote of 7-0, Ordinance No. 1523 passed on second reading.

ORDINANCE NO. 1524 - BUDGET ORDINANCE AMENDMENT - CIVIC CENTER PROMOTIONS BUDGET

5. Consideration was given to a budget ordinance amendment to adjust the Civic Center's promotions budget for increased promotions activities in FY 1984/85.

Vice-Mayor Bratton said this amendment would increase the budget to provide for increased promotions activity for FY 1984-85. The additional events sponsored this year have generated net revenues of $38,102 to the departmental budget. Events sponsored by the Civic Center using allocated promotions funds exceeded budget amounts. However, revenues exceeded projection by $55,321 and will offset these unbudgeted expenditures.

Vice-Mayor Bratton said members of Council were furnished copies of the ordinance and it would not be read in its entirety.

Councilman Boland moved for the adoption of Ordinance No. 1524. This motion was seconded by Councilman Bissette.

On a roll call vote of 7-0, Ordinance No. 1524 passed on first and final reading.

Complete text of Ordinance No. 1524 will be found in Ordinance Book No. 10 at Page 285.

ORDINANCE NO. 1525 -BUDGET ORDINANCE AMENDMENT - FUNDING FOR COMPREHENSIVE PLAN

6. Consideration was given to a budget ordinance amendment to provide funding for public participation in development of comprehensive plan.

Vice-Mayor Bratton said this amendment would provide funding for public participation in development of a Comprehensive Plan. This amendment will appropriate $7,000 from the contingency fund into the Planning Department Comprehensive Plan.

Vice-Mayor Bratton said members of Council were furnished copies of the ordinance and it would not be read in its entirety.

Councilman Price moved for the adoption of Ordinance No. 1525. This motion was seconded by Councilman Myers.

RESOLUTION NO. 85-92 - RESOLUTION OF APPRECIATION AND COMMENDATION TO LOGAN DELANY

3. Consideration was given to a Resolution of Appreciation and Commendation to Logan Delany.

Mayor McDevitt said Logan Delany has served the citizens of Asheville as a dedicated City employee and involved community leader for many years. He has earned the admiration and friendship of his co-workers, colleagues, and the citizens of Asheville, whom he has faithfully served for so long. His leadership and involvement with the Asheville community has impacted positively on the quality of life for Asheville and its citizens. On June 30, 1985, Logan Delany will retire from full-time employment with the City of Asheville.

Mayor McDevitt read the Resolution.

Upon motion of Vice-Mayor Bratton, seconded by Councilman Boland, Resolution No. 85-92 was unanimously adopted.

Complete text of Resolution No. 85-92 will be found in Resolution Book 15 at Page 229.

ORDINANCE NO. 1523 - AN ORDINANCE ADOPTING THE OPERATING BUDGET AND FIXING THE TAX RATE OF THE CITY OF ASHEVILLE FOR THE FISCAL YEAR 1985/86.

4. Consideration was given to the second reading of Ordinance No. 1523, an ordinance adopting the operating budget and fixing the tax rate of the City of Asheville for the Fiscal Year 1985/86.

Mayor McDevitt said this budget ordinance fixes the tax rate for the City of Asheville for fiscal year 1985/86 at $.59 per $100 Assessed Valuation.

Bob Wurst, Director of Audit and Budget, gave a status report on the proposed budget for Fiscal Year 1985/86. He said several changes had been made to the proposed budget which would have no direct budget impact. He said employees would be given the option of receiving a separate longevity check for 1986 only, rather than their longevity being added to their base pay on July 1, 1985. He said stand by pay, employees making more than supervisors, and time and grade discrepancies are being addressed by staff. He said in implementing a full performance grading system, employee participation will be sought. He said in response to concerns expressed by some employees, it is being recommended that the Group Health Insurance Program be amended to allow for out-of-pocket expenses during a year for an individual at $600 and $1,800 per family. He said this amendment to the Group Health Insurance Plan would be monitered throughout the year. He said the proposed budget also includes life insurance benefits to be one times the annual salary rather than having a maximum of $20,000. He said one additional holiday will also be added for City employees.

After discussion, Councilman Price moved to amend Ordinance No. 1523 to include a right-of-way clearing activity in the Parks, Recreation and Public Facilities budget in the amount of $64,738. This motion was seconded by Councilman Myers and carried unanimously.

RESOLUTION NO. 85-94 - RESOLUTION ACCEPTING GRANT OF STREETS IN THE STOCKWOOD SUBDIVISION FROM THE STOCKWOOD ASSOCIATION, INC

9. Consideration was given to a resolution accepting grant of streets in the Stockwood Subdivision from the Stockwood Association, Inc.

Vice-Mayor Bratton said the Stockwood Association, Inc. has petitioned the City of Asheville to accept by grant certain streets in the Stockwood Subdivision with said streets being more particularly described in the Deed conveying said streets from Stockwood Association, Inc. to the City of Asheville. Also Stockwood Association, Inc. has asked the City to accept maintenance of the sewer lines located in those streets. There would be an increase in revenues from Powell Bill if the streets are accepted prior to July 1, 1985. There would also be an increase in street maintenance expenditures which should be off-set by an increase in revenues.

Upon inquiry of Councilman Bissette, Clark Brown, Director of Public Works, said the streets in the Stockwood Subdivision are in average condition. He there would be minor repairs needed, and recommended approval of the resolution. He said the streets in the Stockwood Subdivision met State standards when there were built. However, they are not up to City standards now.

Vice-Mayor Bratton said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Price, seconded by Councilman Frank, Resolution No. 85-94 was unanimously adopted.

Complete text of Resolution No. 85-94 will be found in Resolution Book No. 15 at page 232.

Mayor McDevitt presiding over the meeting at 4:50 p.m.

BIDS - ONE (1) TRAILER MOUNTED SEWER RODDER MACHINE FOR WATER MAINTENANCE, SEWER DEPARTMENT

10. Consideration was given to bids received for a trailer mounted sewer rodder machine.

Mayor McDevitt said sealed bids were received to furnish one (1) trailer mounted sewer rodder machine for Water Maintenance, Sewer Department. Four (4) bids were received and evaluated considering past performance, service record and reliability. References were provided upon request from the two low bidders, Sewer Equipment Company of America and Cities Supply Company, Inc. As a result of the reference checks, Cities Supply Company, Inc.'s past performance, service record and reliability far exceeded that of the low bidder. It is recommended to award to Cities Supply Company, Inc. as the lowest responsible bidder.

Bid summary is as follows:

BIDDER	BID
Cities Supply Company, Inc.	$12,700.00
Sewer Equipment Company of America	12,200.00
Jet - Vac Sanitary Services, Inc.	16,314.20
Public Works Equipment and Supply	14,980.20

On a roll call vote of 7-0, Ordinance No. 1525 passed on first and final reading.

Complete text of Ordinance No. 1525 will be found in Ordinance Book No. 10 at Page 286.

MOTION - APPROVAL OF THE WATER FUND BUDGET

7. Consideration was given to a motion relative to approval of the Water Fund Budget.

Mike Holcombe, with the Water and Sewer Department, said the Water Fund Budget was prepared in accordance with the North Carolina Local Government Budget and Fiscal Control Act and City budget policy. He said the budget had been approved by the Water Authority and by the County of Buncombe.

Councilman Frank moved to approve the Water Fund Budget. This motion was seconded by Councilman Myers and carried unanimously.

RESOLUTION NO. 85-93 - RESOLUTION ACCEPTING DEDICATION OF STREETS IN ASHEVILLE HOUSING AUTHORITY PROJECTS AND AUTHORIZING THE MAYOR TO EXECUTE THE DEDICATION AGREEMENT ON BEHALF OF THE CITY OF ASHEVILLE

8. Consideration was given to a resolution accepting dedication of streets in Asheville Housing Authority projects and authorizing the Mayor to execute the dedication agreement on behalf of the City of Asheville.

Vice-Mayor Bratton said the Asheville Housing Authority has formerly dedicated certain streets to the City of Asheville. The Asheville Housing Authority desires to dedicate streets serving certain other Public Housing Projects to the City of Asheville. The City and the Asheville Housing Authority have executed Cooperation Agreements in which the City has agreed to accept dedication of all interior streets, roads, alleys and adjacent sidewalks within the areas of such projects upon completion of construction by the Asheville Housing Authority to the satisfaction of the City of Asheville. The Housing Authority and the City have made arrangements for Housing and Urban Development funds and Community Development funds to be available to make needed repairs to certain streets. Acceptance of these streets will increase Powell Bill Street mileage thereby increasing Powell Bill revenues. There is $75,000 available through the Housing Authority and $25,000 in CDBG funds available to make immediate street repairs.

Vice-Mayor Bratton said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Frank, seconded by Councilman Myers, Resolution No. 85-93 was unanimously adopted.

Complete text of Resolution No. 85-93 will be found in Resolution Book No. 15 at page 230 and 231.

dedicated by the Perry Alexander family. It has been suggested that the street be named Alexander Drive to become effective July 1, 1985.

FISCAL IMPACT: None **Resolution Book 15, Page 235**

D. Consideration of a motion authorizing the Mayor to execute and file revised applications for Section 5 and Section 9 Urban Mass Transportation Grants for operating, planning, and capital assistance for the Asheville Transit Authority.

HIGHLIGHTS: On May 7, 1985 City Council adopted Resolutions No. 85-68 and 85-69 authorizing the filing of applications with the Department of Transportation, United States of America, for grant under the Urban Mass Transportation Act of 1984, as amended (Sections 5 and 9). The U. S. Department of Transportation has requested that revised applications be filed reappropriating funding for Section 5 and Section 9. This motion authorized the Mayor to execute the revised applications as requested by the U. S. Department of Transportation. The funding amounts for the grants will not be increased.

FISCAL IMPACT: Funding for Section 5 grant:

Local - $503,062
Federal - $503,062

Funding for Section 9 grant:

Local - $ 83,200
State - $ 83,200
Federal - $665,600

Resolution No. 85-98

E. Consideration of a resolution authorizing the City Manager or his designee to execute certain contracts for Bele Chere 1985.

HIGHLIGHTS: This will authorize the City Manager to execute contracts with a variety of entities such as performers, a talent agency and vendors. Bele Chere Festival has been a successful event for the past six years and will be held again July 26-28, 1985.

FISCAL IMPACT: None **Resolution Book No. 15, Page 236**

Upon motion of Councilman Bissette, seconded by Councilman Frank, the Consent Agenda was unanimously approved.

CLAIMS - JOHNNY E. JOHNSON (INSPECTIONS) - WANDA BURRELL (WATER) - FRANK GREEN (WATER) - RODERICK SANDERS (SANITATION)

The City Manager presented claims received from Johnny E. Johnson (Inspections) - Wanda Burrell (Water) - Frank Green (Water) and Roderick Sanders (Sanitation).

Mayor McDevitt referred the claims to the Corporation Counsel for investigation and recommendation.

Councilman Boland moved to award the bid to Cities Supply Company, Inc. in the amount of $12,700.00. This motion was seconded by Councilman Price and carried unanimously.

APPROVAL OF THE CONSENT AGENDA

11. Consideration was given to a motion approving the consent agenda.

Mayor McDevitt said the following items are of a routine nature and they have been previously reviewed by the members of the City Council. Therefore, by unanimous vote to approve these items, the City Council may, pursuant to the procedures established in Ordinance No. 1008, adopt all of the items with one motion without the full reading and/or separate motion adopting each individual item. Upon the request of a citizen, a member of the City Council, and/or a member of the City staff, any single item scheduled for approval on the consent agenda may be considered separately.

Resolution No. 85-95

A. Consideration of a resolution reappointing a member to the Recreation Board for Asheville.

HIGHLIGHTS: This resolution will reappoint Mr. Tommy Saunooke as a member of the Recreation Board.

FISCAL IMPACT: None **Resolution Book 15, Page 233**

Resolution No. 85-96

B. Consideration of a resolution supporting the Western North Carolina Soap Box Derby and authorizing the closing of certain streets in the City of Asheville for said event.

HIGHLIGHTS: The WNC Soap Box Derby Association, an affiliate of the West Asheville Rotary Club, is sponsoring a Soap Box Derby for participants in WNC on July 13, 1985. The City has received a request from the Rotary Club to close South French Broad Avenue from Bartlett Street south to the end of South French Broad Avenue, Ralph Street from Ora Street to South French Broad Avenue, Livingston Street from Depot Street to Hibernia Road and Choctaw Street from Adams Street to South French Broad Avenue on June 29 (Practice Run Date), July 13 (Race Date) and if necessary, July 20 (Rain Date) from 9:00 A.M. until 4:00 P.M. The street closings are conditioned upon allowing emergency vehicles to pass if the need arises.

FISCAL IMPACT: None **Resolution Book 15, Page 234**

Resolution No. 85-97

C. Consideration of a resolution to name a new street in the City of Asheville.

HIGHLIGHTS: A new street was constructed and completed in 1984 connecting Curve Street and Windswept Drive and it is now necessary to select a name for the street. The right-of-way for the new street was

Tuesday - June 25, 1985 - 4:00 p.m.

Regular Meeting

Present: Vice-Mayor Wilhelmina Bratton, Presiding; Councilmen Mary Lloyd Frank, Norma T. Price, Walter R. Boland, and Corporation Counsel William F. Slawter; Associate City Manager/City Clerk William P. Wolcott, Jr. and Deputy City Clerk Carol Hensley.

Absent: Mayor Larry McDevitt, Councilman Louis Bissette, Councilman Gordon Myers, and City Manager Neal Creighton.

INVOCATION

The invocation was given by Councilman Norma Price.

APPROVAL OF THE MINUTES - JUNE 18, 1985 MEETING

1. Approval of the minutes of the June 18, 1985 meeting.

Vice-Mayor Bratton announced the approval of the minutes as submitted.

RESOLUTION NO. 85-99 - RESOLUTION ADOPTING REGULATIONS PRESCRIBING PROCEDURES FOR DISPOSING OF PERSONAL PROPERTY VALUED AT LESS THAN FIVE HUNDRED DOLLARS ($500.00) FOR ANY ONE ITEM OR GROUP OF ITEMS

2. Consideration was given to a resolution adopting regulations prescribing procedures for disposing of personal property valued at less than five hundred dollars ($500.00) for any one item or group of items.

Vice-Mayor Bratton said N. C. Gen. Stat. sec. 160A-266 (C) provides that a City Council may adopt regulations prescribing procedures for disposing of personal property valued at less than $500.00 for any one item or group of items. This resolution establishes such regulations.

Vice-Mayor Bratton said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Frank, seconded by Councilman Price, Resolution No. 85-99 was unanimously adopted.

Completed text of Resolution No. 85-99 will be found in Resolution Book No. 15 at page 237.

RESOLUTION NO. 85-100 - RESOLUTION THAT THE MUNICIPAL RECORDS RETENTION AND DISPOSITION SCHEDULE ISSUED JUNE 1984, BY THE DEPARTMENT OF CULTURAL RESOURCES, DIVISION OF ARCHIVES AND HISTORY, BE APPROVED

3. Consideration was given to a resolution that the Muncipal Records Retention and Disposition Schedule issued June 1984, by the Department of Cultural Resources, Division of Archives and History, be approved.

BLUE RIDGE PARKWAY 50TH ANNIVERSITY

Councilman Price spoke relative to the Blue Ridge Parkway celebrating its 50th anniversity in 1985. She said brochures relative to the events taking place are available to the public, and encouraged the citizens to be involved in the celebration.

DANIE A. JOHNSON, ARCHITECT - RESPONSE TO QUESTIONS RELATIVE TO PROPOSED PARKING STRUCTURE ON RANKIN AVENUE

In response to concerns expressed by Danie A. Johnson, Architect, relative to the Request for Proposals for the Proposed Parking Garage on Rankin Avenue, Councilman Bissette requested that Tom Tarrant, City Engineer, explain the City's procedure on selecting consultants for Request for Proposals.

Mr. Tarrant, City Engineer, said both he and the City Manager had, in the past, encouraged architects and engineers to request being on the City's mailing list for Request for Proposals. He said each and every project is advertised in the newspaper on Sunday. He said in response to Mr. Johnson's concerns, the City Engineering Department is delaying the deadline on receiving Requests for Proposals on the Parking Garage for Rankin Avenue until July 5th instead of June 21st. He said he is also sending information relative to the Request for Proposals to all architects and engineers in the telephone book, and also advising them of the City's procedure in furnishing information for Request for Proposals.

Danie Johnson, Architect, said he appreciated the changes being made by the City Engineering Division relative to the proposed parking structure on Rankin Avenue. He said he had a host of concerns about the Request for Proposals. He requested that Council seek input from local architects and engineers about this particular project.

Mayor McDevitt noted that Council is sensitive to the number of issues that were raised in Danie Johnson's letter dated June 13, 1985. He said the fact that no local people were sent Request for Proposals does not reflect an adopted policy by the Asheville City Council. He said Council makes every effort to get involvement from local business people.

(A copy of Danie A. Johnson's letter is attached to the minutes.)

RALPH BISHOP - LOTTERY SALES

Ralph Bishop again spoke to members of Council relative to the lottery sales in the City of Asheville.

ADJOURNMENT

Upon motion of Councilman Frank, seconded by Councilman Myers, the meeting adjourned at 5:20 p.m.

Lou McDevitt
MAYOR

William F. Moseley
CITY CLERK

The proposed building will provide financial services for employees for hospitals, medical facilities, and small industry. The area surrounding the building will be paved with approximately 26 parking spaces and appropriately landscaped.

Councilman Boland moved to accept the recommendation of the Housing Authority for the sale of disposal parcel 123 and disposal parcels 33 and 34. This motion was seconded by Councilman Price and carried unanimously.

APPROVAL OF THE CONSENT AGENDA

5. Consideration was given to a motion approving the consent agenda.

Vice-Mayor Bratton said the following items are of a routine nature and they have been previously reviewed by the members of the City Council. Therefore, by unanimous vote to approve these items, the City Council may, pursuant to the procedures established in Ordinance No. 1008, adopt all of the items with one motion without the full reading and/or separate motion adopting each individual item. Upon the request of a citizen, a member of the City Council, and/or a member of the City staff, any single item scheduled for approval on the consent agenda may be considered separately.

A. Resolution No. 85-101

Resolution reappointing Harold Talbert as a member of the Board of Adjustment for a period of one year, term expiring January 21, 1986.

(Resolution Book No. 15 at page 240.)

Resolution No. 85-102

Resolution reappointing Jack Baber to the Board of Adjustment for a one year term, term expiring January 21, 1986.

(Resolution Book No. 15 at page 241.)

Resolution No. 85-103

Resolution reappointing Wade H. Thomas, Sr. to the Board of Adjustment for a two year term, term expiring January 21, 1987.

(Resolution Book No. 15 at page 242.)

Resolution No. 85-104

Resolution reappointing Richard Webster to the Board of Adjustment for a two year term, term expiring January 21, 1987.

(Resolution Book No. 15 at page 243.)

Vice-Mayor Bratton said N. C. General Statute 121-5 states that no person may destroy, sell, loan, or otherwise dispose of any public record without the consent of the Department of Cultural Resources. In an effort to promote municipal records management, the Department of Cultural Resources, Division of Archives and History, has designed and approved a Municipal Records Management Program which includes a schedule of records retention and disposition known as the Municipal Records Retention and Disposition Schedule. The Municipal Records Retention and Disposition Schedule issued June, 1984, provides that records listed in the Schedule, or those later added by amendment, may be destroyed through its blanket approval of the Retention Disposition Schedule.

Vice-Mayor Bratton said that members of Council were previously furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Frank, seconded by Councilman Boland, Resolution 85-100 was unanimously adopted.

Complete text of Resolution 85-100 will be found in Resolution Book No. 15 at page 238.

SALE OF DISPOSAL PARCEL 123 IN THE EAST RIVERSIDE URBAN RENEWAL PROJECT AND DISPOSAL PARCELS 33 AND 34 IN THE EAST END/VALLEY STREET COMMUNITY IMPROVEMENT PROGRAM

4. Consideration was given to a motion approving the sale of disposal parcel 123 in the East Riverside Urban Renewal Project and disposal parcels 33 and 34 in the East End/Valley Street Community Improvement Program.

Vice-Mayor Bratton said the Housing Authority has tentatively accepted the following bids for certain disposal parcels in the East Riverside Urban Renewal Project and in the East End/Valley Street Community Improvement Program.

Parcel	Reuse	Price	Bid	Redeveloper
33 & 34	Residential	1,100.00	1,100.00	John & Louise Fields
123	Commercial	39,000.00	41,501.00	United Services Credit Union

Lots 33 and 34, located on Martin Luther King, Jr. and Carroll Avenue, are residential lot sales to an adjacent property owner to provide additional yard space. Appropriate landscaping will be done but no construction is planned.

Lot 123 is located on corner of South French Broad Avenue and Ralph Street. The redevelopers propose to construct a one story, masonry and wood frame structure, approximately 4,000 square feet in size. The inside structure will consist of a teller counter, lobby area, offices, storage area, break room, and conference room. A drive-up window will also be constructed.

Upon motion of Councilman Frank, seconded by Councilman Boland, the Consent Agenda was unanimously approved.

CLAIMS - ANNA W. HAMPTON (POLICE) - DEBRA FOWLER (WATER) - SEKO DEVELOPMENT COMPANY (WATER)

The Assistant City Manager presented claims received from Anna W. Hampton, Debra Fowler, and Seko Development Company.

Vice-Mayor Bratton referred the claims to the Corporation Counsel for investigation and recommendation.

RESOLUTION 85-111 - RESOLUTION AUTHORIZING THE MAYOR TO SIGN AN AMENDED OPTION AGREEMENT FOR THE SALE OF LAND TO THE STATE OF NORTH CAROLINA

Consideration was given to a resolution authorizing the Mayor to sign an amended option agreement for the sale of land to the State of North Carolina.

Corporation Counsel William Slawter said this resolution will authorize the execution of an amended option agreement with the State of North Carolina for the sale of 50 acres of land from a tract containing approximately 65.5 acres adjoining Western North Carolina Agricultural Center. Provided, however, that said option agreement shall continue to be contingent upon the City of Asheville being free from any restrictions that might be imposed by the Federal Aviation Administration or other authority upon the expenditure of the funds derived from the sale. Provided, further, that in the event that said contingency cannot be met, the City shall endeavor to negotiate a lease of said property to the State of North Carolina. Upon such terms and conditions as may be hereafter approved by the City Council. He said this option agreement would expire December 31, 1985.

COMMENTS RELATIVE TO ROCK FESTIVAL HELD ON JUNE 21, 1985 - RACE TRACK

Councilman Price said members of Council had discussed, during the Pre-Council work session, complaints that were received from West Asheville residents relative to the rock festival held at the race track on June 21, 1985. She said as a result of that discussion, the City staff would be looking into alternatives to address such events in the future through a permit system or through the noise ordinance.

ORDINANCE 1523 - AN ORDINANCE ADOPTING THE OPERATING BUDGET AND FIXING THE TAX RATE FOR THE CITY OF ASHEVILLE FOR THE FISCAL YEAR 1985/86 (AS AMENDED)

Consideration was given to the third reading of Ordinance 1523, an ordinance adopting the operating budget and fixing the tax rate for the City of Asheville for the fiscal year 1985/86 (as amended).

Vice-Mayor Bratton said this budget ordinance fixes the tax rate for the City of Asheville for fiscal year 1985/86 at $.59 per $100 Assessed Valuation. This ordinance passed on first reading on June 11, 1985 and on second reading on June 18, 1985.

Resolution No. 85-105

Resolution reappointing John Abbott to the Board of Adjustment for a two year term, term expiring Janaury 21, 1987.

(Resolution Book No. 15 at page 244.)

Resolution 85-106

Resolution reappointing John Acee to the Board of Adjustment for a three year term, term expiring January 21, 1988.

(Resolution Book No. 15 at page 245.)

B. **Resolution No. 85-107** Resolution appointing a member to the Asheville-Buncombe Historic Resources Commission.

HIGHLIGHTS: This resolution will appoint Barbara Maloy to the Asheville-Buncombe Historic Resources Commission for a three (3) year term.

FISCAL IMPACT: None

(Resolution Book No. 15 at page 246.)

C. **Resolution No. 85-108** Resolution appointing a member to the Community Arts Council.

HIGHLIGHTS: This resolution will appoint Councilman Norma Price to a one (1) year term to the Community Arts Council.

FISCAL IMPACT: None

(Resolution Book No. 15 at page 247.)

D. **Resolution 85-109** Resolution reappointing members to the Civic Center Commission.

HIGHLIGHTS: This resolution will reappoint Mike Green and Garrett AlDerfer to a three (3) year term.

FISCAL IMPACT: None

(Resolution Book No. 15 at page 248.)

E. **Resolution 85-110** Resolution reappointing member to the Policemen's Pension Board of Examiners.

HIGHLIGHTS: This resolution will reappoint James H. Parris, Jr. and Dr. John A. Henderson to a three (3) year term.

FISCAL IMPACT: None

(Resolution Book No. 15 at page 249.)

On a roll call vote of 4-0, Ordinance No. 1523 passed on third and final reading.

Complete text of Ordinance No. 1523 will be found in Ordinance Book No. 10 at Page 281-284.

ADJOURNMENT

Upon motion of Councilman Boland, seconded by Councilman Price, the meeting adjourned at 4:20 p.m.

Lay McDevitt
MAYOR

Miriam J. Nolen
CITY CLERK

Vice-Mayor Bratton said this ordinance was previously read on first and second reading and would not be re-read in its entirely unless there was specific request to do so.

Vice-Mayor Bratton said Mayor McDevitt had requested that Council postpone the third reading of the budget ordinance until 5:00 p.m. However, since no one was present to comment on the budget, members of Council desired to continue with the vote on the third reading of the budget ordinance at this time.

Members of Council thanked Mr. Wurst, Audit and Budget Director, for preparing the budget brief to be presented to the citizens of Asheville.

Vice-Mayor Bratton read the following statement from Councilman Louis Bissette:

> "I informed the Council last week that, due to a law suit which I am currently involved in in Norfolk, Virginia, I would be unable to attend the Council's regularly scheduled meeting to be held on June 25, 1985.
>
> Although the Council's agenda for June 25, 1985 is relatively light, it does include the third and final reading of the 1985/86 Budget Ordinance. As you are aware, we have all been integrally involved in the formulation of the final budget ordinance. However, when the budget ordinance was presented for the first and second readings, I still had several questions relative, primarily, to the new pay plan and certain changes to the fringe benefit package for our City employees. Since that time, the City Manager and his staff have satisfactorily answered my questions and made adequate modifications to respond to my specific concerns. I, therefore, wanted you to know, and for the record to reflect, that I support the final budget ordinance as previously amended and passed by Council on second reading."

Note: Mayor McDevitt requested that the following statement be included in the minutes:

"Following adjournment, and at 5:00 p.m., the Mayor arrived in the Council Chambers in order to be present and vote on the budget. He was in Buncombe County Superior Court, in the midst of a trial, and was unable to be present, either for the Pre-Council meeting or the beginning of the regular meeting. He had understood that Council would consider deferring action on the budget until at least 5:00 p.m., and he had called the City Hall Offices with a message that he would be present at the meeting at 5:00 p.m. Even though the meeting had adjourned, the Mayor stated that he had spent a great deal of time on the budget, and assisted in the development of the budget for 1985/86; further, that he had been present and had voted at two previous Council meetings on the 1985/86 budget; and further, that had he been present at the meeting of June 25, 1985 he would have voted in favor of the budget at today's meeting."

RESOLUTION NO. 85-113 - RESOLUTION AUTHORIZING THE BARRICADING OF A PORTION OF CHURCH STREET ON JULY 13, 1985, FOR A "SHARING AFFAIR"

3. Consideration was given to a Resolution authorizing the barricading of a portion of Church Street on July 13, 1985, for "A Sharing Affair".

Mayor McDevitt said the Asheville Buncombe Community Christian Ministry has requested that Church Street, from the property line of Central United Methodist Church south to the property line of Trinity Episcopal Church (not including that portion of Aston Street) be closed to vehicular traffic on Saturday, July 13, 1985, from 6:00 a.m. through 6:00 p.m. for their annual "A Sharing Affair" which has raised thousands of dollars for the work of the Christian Ministry.

Mayor McDevitt said members of Council were furnished copies of the Resolution and it would not be read in its entirety.

Upon motion of Councilman Frank, seconded by Councilman Price, Resolution No. 85-113 was unanimously adopted.

Complete text of Resolution No. 85-113 will be found in Resolution Book 15 at Page 253.

RESOLUTION NO. 85-114 - RESOLUTION AMENDING RESOLUTION 83-93 BY AUTHORIZING THE MAYOR TO EXECUTE ON BEHALF OF THE CITY OF ASHEVILLE ANY CHANGE ORDERS WITHIN THE BUDGETED AMOUNT WITH HOBSON CONSTRUCTION COMPANY, INC. FOR THE PROJECT KNOWN AS REED CREEK SEWER LINE (CONTRACT 1.0), AND WHEELER CONSTRUCTION COMPANY, INC. FOR THE PROJECT KNOWN AS MURDOCK AVENUE SEWER LINE (CONTRACT NO. 2.0).

4. Consideration was given to a resolution amending Resolution No. 83-93 by authorizing the Mayor to execute, on behalf of the City of Asheville, any change orders within the budgeted amount with Hobson Construction Company, Inc. for the project known as Reed Creek Sewer Line (Contract 1.0), and Wheeler Construction Company, Inc. for the project known as Murdock Avenue Sewer Line (Contract 2.0).

Mayor McDevitt said this resolution will authorize the Mayor to execute on behalf of the City of Asheville only those change orders within the budgeted amount for the Reed Creek Sewer Line and Murdock Avenue Sewer Line, in lieu of "any change orders which might arise during the construction of said projects".

Mayor McDevitt said members of Council were furnished copies of the Resolution and it would not be read in its entirety.

Upon motion of Councilman Price, seconded by Councilman Frank, Resolution No. 85-114 was unanimously adopted.

Complete text of Resolution No. 85-114 will be found in Resolution Book 15 at Page 254.

REGULAR MEETING Tuesday, July 2, 1985 - 4:00 p.m.

Present: Mayor Larry McDevitt, Presiding; Vice-Mayor Wilhelmina Bratton; Councilmen Mary Lloyd Frank, Norma T. Price, Gordon Myers, Walter R. Boland, Louis Bissette; Corporation Counsel William F. Slawter; City Manager Neal Creighton; Deputy City Clerk Carol Hensley

Absent: Associate City Manager/City Clerk William F. Wolcott, Jr.

INVOCATION

The invocation was given by Councilman Louis Bissette.

ANNOUNCEMENT OF WELCOMING HOME CEREMONIES FOR DR. RICHARD MOON

Mayor McDevitt announced that Dr. Richard Moon would be returning home after being held hostage by a group of terrorists. He said Dr. Moon would be arriving at the Asheville Regional Airport at 10:07 p.m. tonight, and there would be a welcoming home ceremony at the Airport. He said the ceremony would be held by Congressman Hendon, Mayor of Biltmore Forest Canie Smith, Buncombe County Commission Chairman Curtis Ratcliff, and himself. He encouraged as many as possible to attend the ceremony.

APPROVAL OF MINUTES - JUNE 25, 1985 MEETING

1. Approval of the minutes of the June 25, 1985 meeting.

Mayor McDevitt announced the approval of the minutes, as submitted.

RESOLUTION NO. 85-112 - RESOLUTION COMMENDING THE HILLCREST 4-H CLUB FOR RECEIVING THE "KEEP NORTH CAROLINA BEAUTIFUL, INCORPORATED" AWARD

2. Consideration was given to a resolution commending the Hillcrest 4-H Club for receiving the "Keep North Carolina Beautiful, Incorporated" award.

Mayor McDevitt said the Hillcrest 4-H Club was the third place winner in the "Keep North Carolina Beautiful, Incorporated" awards.

Upon motion of Councilman Bissette, seconded by Councilman Boland, Resolution No. 85-112 was unanimously adopted.

Complete text of Resolution No. 85-112 will be found in Resolution Book No. 15 at Page 252.

Mayor McDevitt presented a copy of the Resolution to Mr. Johnny Hayes, Director of the Hillcrest Center, and to members of the Hillcrest 4-H Club.

Keisha Battle, President of the Hillcrest 4-H Club thanked members of Council for the resolution.

Upon motion of Councilman Frank, seconded by Councilman Bissette, Resolution No. 85-116 was unanimously adopted.

Complete text of Resolution No. 85-116 will be found in Resolution Book 15 at Page 256.

APPROVAL OF SIGN PERMIT - 770 PATTON AVENUE - "EYES FOR YOU"

7. Consideration was given to the approval of a sign permit for an identification sign at 770 Patton Avenue.

Mayor McDevitt said Creative Signs of Asheville has requested a sign permit to erect an identification sign at 770 Patton Avenue, advertising "Eyes For You". This sign requires approval of the City Council, pursuant to the zoning ordinance, in that the sign will be situated closer than 600' of a limited access highway.

Verl Emrick, Director of Planning, said this sign meets all requirements of the zoning ordinance. However, it does require the approval of City Council, pursuant to the zoning ordinance.

Councilman Myers moved to approve the sign permit for the identification sign at 770 Patton Avenue. This motion was seconded by Councilman Bissette and carried unanimously.

SCHEDULING OF PUBLIC HEARING - SITE PLAN OF THE PROPOSED "RIVER RIDGE APARTMENTS, 800 FAIRVIEW ROAD

8. Councilman Boland moved to schedule a public hearing relative to the site plan of the proposed River Ridge Apartments to be located at 800 Fairview Road for July 23, 1985. This motion was seconded by Councilman Frank and carried unanimously.

CLAIMS - ROBERT ADAMS (SEWER) - WALTER TOTH (WATER) - TRACY TAYLOR (PARKS) - EDWARDS EQUIPMENT CO. (STREETS) - HOME FURNITURE STORE (WATER) - LEONA ROBINSON (STREETS) - CLARA E. BLALOCK (WATER)

9. The City Manager presented claims from Robert Adams (Sewer), Walter Toth (Water), Tracy Taylor (Parks), Edwards Equipment Company (Streets), Home Furniture Store (Water), Leona Robinson (Streets), and Clara E. Blalock (Water).

Mayor McDevitt referred the claims to the Corporation Counsel for investigation and recommendation.

LAWSUITS - MARILYN JO LONON VS. CITY OF ASHEVILLE AND FRED JAMES TURNER

10. The City Manager said the City was served with a lawsuit, in which the City of Asheville is a defendant, involving Marilyn Jo Lonon vs. City of Asheville and Fred James Turner.

Mayor McDevitt referred the matter to the Corporation Counsel for appropriate action.

RESOLUTION NO. 85-115 - RESOLUTION AUTHORIZING THE CITY MANAGER ON BEHALF OF THE CITY OF ASHEVILLE TO EXECUTE AN AGREEMENT FOR AN ARCHAEOLOGICAL SURVEY AT THE PACK PLAZA DEVELOPMENT PROJECT (GILBERT/COMMONWEALTH, INC.)

5. Consideration was given to a resolution authorizing the City Manager, on behalf of the City of Asheville, to execute an agreement for an archaeological survey at the Pack Plaza Development Project.

Mayor McDevitt said in accordance with a Memorandum of Agreement between the City, the Advisory Council on Historic Preservation, and the North Carolina State Historic Preservation Office, the City seeks to conduct data recovery which will be sufficient to document eligibility for inclusion in the National Register of Historic Places (36 CFR Sec. 1202.6). If the resources are determined to meet National Register Criteria (36 CFR Sec. 60.6), the City will ensure compliance with the appropriate provisions of the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469). This resolution will authorize the City Manager to execute an agreement for an archaeological survey at the Pack Plaza Development Project. The budget for the above archaeological study will cost $13,175.00 and is to be included in the Pack Plaza project budget.

Mayor McDevitt said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Upon motion by Councilman Price, seconded by Councilman Frank, Resolution No. 85-115 was unanimously adopted.

Complete text of Resolution No. 85-115 will be found in Resolution Book 15 at Page 255.

RESOLUTION NO. 85-116 - RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT FOR TRANSPORTATION PLANNING SERVICES WITH THE LAND-OF-SKY REGIONAL COUNCIL

6. Consideration was given to a resolution authorizing the Mayor to enter into a contract for Transportation Planning Services with the Land-of-Sky Regional Council.

Mayor McDevitt said the Asheville Urban Area Planning Work Program for 1984-85 has been approved to include a total of $41,565 in Section 104(f) planning funds for the purpose of street and highway planning. The funds are allocated to various departments and agencies within the planning area for completion of work program tasks. For timely completion of the Planning Work Program tasks, it is deemed appropriate to designate a portion of the Section 104(f) planning funds for the Land-of-Sky Regional Council for carrying out specific segments of the program. The work elements assigned to the Land-of-Sky Regional Council are identified in a contract agreement between the City and the Regional Council. The contract not to exceed $3,570.00.

Mayor McDevitt said members of Council were furnished copies of the resolution and it would not be read in its entirety.

PUBLIC HEARING - SITE PLAN OF THE PROPOSED "SUNSET POINTE CONDOMINIUMS" - TOWN MOUNTAIN ROAD

15. A public hearing was held relative to the site plan of the proposed "Sunset Pointe Condominiums" to be located on Town Mountain Road.

Mayor McDevitt requested, due to his law firm representing the developer of the Sunset Pointe Condominiums, that he be excused from consideration and vote on the matter relative to "Sunset Pointe Condominiums".

Councilman Price moved to excuse Mayor McDevitt from participation and vote on the Sunset Pointe Condominiums issue. This motion was seconded by Councilman Boland and carried unanimously.

Mayor McDevitt turned the meeting over to Vice-Mayor Bratton.

Vice-Mayor Bratton said the Planning and Zoning Commission, at a meeting held on April 17, 1985, reviewed the site plan of the proposed "Sunset Pointe Condominiums" to be located on Town Mountain Road. The plan was prepared by Freeman, Weels and Major, Architects, for W. R. Martin, Developer, both of Greenville, S.C. and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend denial of the site plan to City Council.

The City Clerk presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Vice Mayor Bratton opened the public hearing at 4:32 p.m.

Verl Emrick, Director of Planning, said the site plan for the proposed "Sunset Pointe Condominiums" was presented to the Planning and Zoning Commission on April 17, 1985. He said the developer proposed to construct 264 high-rise units adjacent to the existing six story building (Tiara Apartments), which have been converted to condominiums. He said the project would be located on 29 acres. He said the Planning and Zoning Commission recommended denial of the site plan, because the project is not in character with adjacent residential property and because of a threat to the health and safety of current residents by increased traffic. Also, the project is not in character due to topography of the site and should not be developed to the maximum allowed by the ordinance. He said the Planning Board also voiced concern relative to the traffic situation in the area, being that the road is very narrow and curving. He said they were also concerned about the access designed at the lower end of this project. He said at the Planning Board's request, the developer agreed to redesign the internal parking lot of the project, to allow fire apparatus to easily enter the project. He said water and sewer facilities are available and have been approved by the Water Authority and the Metropolitan Sewerage District.

Penn Dameron, attorney representing the developer, introduced Alan Freeman, Architect for the project.

RESOLUTION NO. 85-117 - RESOLUTION DESIGNATING THE MAYOR TO SIGN AS AGENT FOR THE CITY OF ASHEVILLE, A SPECIAL ORDER BY CONSENT ISSUED BY THE STATE OF NORTH CAROLINA, DEPARTMENT OF NATURAL RESOURCES AND COMMUNITY DEVELOPMENT FOR THE HALL CREEK COLLECTOR SEWER

11. Consideration was given to a resolution designating the Mayor to sign as agent for the City of Asheville, a special order by consent issued by the State of North Carolina, Department of Natural Resources and Community Development for the Haw Creek Collector Sewer.

Mayor McDevitt said this resolution will authorize the Mayor to negotiate the terms of a contractual agreement with the State of North Carolina Department of National Resources and Community Development, for issuance of a special order by consent permitting additional sewer service in the Haw Creek area, in the form of 7,500 gallons per day discharge from single family dwellings.

Upon motion of Councilman Price, seconded by Councilman Frank, Resolution No. 85-117 was unanimously adopted.

Complete text of Resolution No. 85-117 will be found in Resolution Book No. 15 at Page 257.

APPROVAL OF WOODBURY APARTMENTS LANDSCAPING PLAN

12. Mayor McDevitt noted that on May 28, 1985, Council approved the site plan of the Woodbury Apartments to be located off New Curve Streeet, subject to compliance with the Erosion Control Ordinance and further that the landscaping plan be submitted and approved by Council. He said during the pre-council meeting, the landscaping plan was presented and approved by Council.

Councilman Bissette requested that the landscaping plan be incorporated into the site plan for the Woodbury Apartment project.

COUNCIL MEETING FOR JULY 9, 1985 - CANCELLED

13. Councilman Price moved that, due to the lack of business, the regularly scheduled meeting for July 9, 1985, be cancelled.

This motion was seconded by Councilman Frank and carried unanimously.

RALPH BISHOP - LOTTERY SALES

14. Ralph Bishop again spoke to members of Council relative to lottery sales in the City of Asheville.

Gary Rowe, Attorney representing residents from the Sunset Mountain and Grove Park Inn area, read portions of the zoning ordinance relative to group developments. He requested that Council concur with the Planning and Zoning Commission's recommendation to deny the project. He submitted that the newly enacted height restriction ordinance would apply to this particular project. He said the proposed project would be higher than the existing Tiara Apartment complex.

Mr. Rowe referred to a letter to Corporation Counsel Slawter from Penn Dameron, dated June 26, 1985, in citing court cases relative to this issue. He said he felt Council had a valid reason for passing a height restriction ordinance. He said the proposed project is not in harmony with the existing neighborhood.

David Quinn, resident of South Asheville, said the proposed project is not appropriate and is not in keeping with the harmony of the City of Asheville. He also quoted sections of the zoning ordinance relative to appropriate use of land. He said the project is not in keeping with the Land Use Plan, (comprehensive plan), adopted by the Asheville City Council on August 4, 1977. He said in this Comprehensive Plan, Sunset Mountain was designated for a single family residential district, due to the physical characteristics of the land and the neighborhood. He said the existing slopes are severe for this type of density project. He said Council should be concerned about protecting the natural beauty of the mountains. He said the roads are mountainous, steep, narrow, and curvy and would impose hazards in the area. He said the project could present problems in connection with fire protection. He recommended that Council deny approval of the site plan.

Doug Swaim, 296 Montford Avenue, spoke relative to the Environmental Impact Statement submitted by the developer to the City of Asheville. He cited several areas in the Environmental Impact Statement that were incorrect, being that the developer will build on slopes greater than 40%, Town Mountain Road is a scenic highway, and the area is a historical site.

Larry Chapman, resident of Sunset Mountain, said he was not opposed to development, but felt the City of Asheville should consider orderly growth for the neighborhood. He said once a building permit is issued, the plans could be changed without the consent of Council. He said he was also concerned about selling portions of the undeveloped land in the future and putting in more units, which is a very high possibility. He said he had contacted Jim Daniels, past member of North Carolina Department of Transportation Board, who said Town Mountain Road is not a responsibility of the North Carolina Department of Transporation.

Mr. Chapman gave the following synopsis concerning the condition of Old Toll Road:

"SYNOPSIS OF AUGUST 18, 1963 REPLY BY KEN MICHALOVE,
ASHEVILLE CITY MANAGER, AND T. CLARK BROWN, DIRECTOR OF PUBLIC WORKS,
TO QUESTIONS CONCERNING CONDITION OF OLD TOLL ROAD

... this (questions concerning the condition of Old Toll Road) came up approximately two to three years ago (1981 or 1980). At that time, my recommendation, and it has not changed, was to one-way Old Toll Road. This was due to the limited right-of-way and narrow shoulders which would not accomodate guardrails.

Alan Freeman, Architect for the project, said the property is zoned for 220 additional units, and the developer purchased the property with this in mind. He said if the high-rise units were not built, the developer would have to cut all the trees on the property, in order to construct low-rise units. He said the developer preferred to confine construction to as small an area as possible, leaving the majority of the land undisturbed. He said parking would be provided in decks underneath the buildings. He said four buildings would be constructed, leaving 17 acres of the land undisturbed. He said the project is environmentally, economically, and aesthetically good.

Mr. Freeman reviewed the details of the construction aspects of the project. He said the construction will appear to be an outgrowth of the mountains, rather than something that did not belong there.

Upon inquiry of Councilman Price, Mr. Freeman said there were no changes made to the site plan since it was presented to the Planning and Zoning Commission.

Mr. Dameron said since the Planning and Zoning Commission's recommendation, Council has enacted an ordinance restricting height limitations in the R-1 and R-2 residential districts to 40 feet. He said this ordinance should not, and cannot, legally be applicable to this project. He said the recently enacted height restriction ordinance was not considered at the Planning and Zoning Commission meeting. He said as far as the traffic situation is concerned, the North Carolina Department of Transportation has stated that this project would not adversely affect traffic on Town Mountain Road. He said Council should rely on the North Carolina Department of Transportation's statement. He said no one objected, during the Planning and Zoning Commission meeting, to increased traffic in the area that might be created by the construction of the project. He said as far as non-conformity to the neighborhood is concerned, aesthetically the project would be in conformity with the existing high-rise apartments. He said the proposed structure would only be 30 feet greater than the existing structure. He said the project is in keeping with the wooded area, and if the developers went to "low-rise units", it would take up all of the undeveloped land in the area. He said the project, as designed, would be in the best interest of the residents in the neighborhood and the residents of Asheville.

Mr. Dameron repeated that this project is not and will not, out of the question of fairness, be applicable to the recently enacted ordinance on height restrictions. He said in time, the people of Asheville will realize that the project is good for the City of Asheville.

Upon inquiry of Councilman Bissette, Corporation Counsel Slawter said he disagreed with Mr. Dameron that the recently enacted height limitation ordinance is not applicable. He said in his opinion, the 40 foot height restriction would be applicable to the project.

Upon inquiry of Councilman Price, Mr. Dameron said future use of the undeveloped land would have to be addressed by the existing zoning ordinance.

Gary Rowe said members of Council should consider the valid factors presented to them relative to this project. He said the issuance of a building or a zoning permit is not an absolute right but only a privilege. He said Council should approach this issue with strict requirements. He said Council should protect Asheville's most precious resource, its mountains. He said there are other alternatives for the developer and requested that Council deny the project.

Upon inquiry of council, Mr. Emrick said in his opinion the Planning and Zoning Commission did not take an unusual amount of time to consider the project.

Upon inquiry of Councilman Frank, Chief Causey with the Asheville Fire Department said according to the Fire Code, highrise buildings are fought internally. He said the Fire Code only requires that a thirty minute water supply be available. He said as far as access to the building, the only requirement is that access be made available for a fire truck in front of the building. He said the Highrise Building Code would require that the building be sprinkled. He said he has a letter from the developer stating that he will comply with all requirements of the Fire Code and would have the required water supply.

Upon inquiry of Councilman Frank, Mr. Tom Tarrant, City Engineer, said erosion control in the area would not be a problem, because the less surface area you have, the less erosion problems you have; and that density alleviates storm drainage runoff.

There being no further comments, Vice-Mayor Bratton closed the public hearing at 6:04 p.m.

Councilman Bissette commented that he had concerns about the proposed site plan relative to access and traffic on Old Toll Road, as well as being advised by the Corporation Counsel that the project is not in conformance with the zoning ordinance.

Corporation Counsel Slawter again said, in his opinion, the forty foot height restriction is applicable to this project, even though the project was proposed prior to the adoption of the ordinance. He said it is in violation of an existing ordinance. He said one of the options for Council is to remand the project to the Planning and Zoning Commission, giving the developer an opportunity to make amendments to his site plan to address concerns of Council, as well as clearing the violation of the height restriction ordinance.

After discussion, Councilman Boland moved to remand the site plan for the "Sunset Pointe Condominiums" to the Planning and Zoning Commission to further consider traffic, safety, and violations of the height restriction ordinance. He said this would give the developer an opportunity to change the design of the project. This motion was seconded by Councilman Frank and carried unanimously.

ADJOURNMENT

Councilman Price moved to adjourn the meeting at 6:10 p.m. This motion was seconded by Councilman Myers and carried unanimously.

Gary McDevitt
MAYOR

William F. Moletta
CITY CLERK

If Old Toll Road is to be made wide enough to safely continue to accommodate two-way traffic (it) would require installation of guardrail(s) (and) additional right-of-way of approximately 20 feet (on average) would have to be acquired.

"I recommend the 'one-way concept for this street for two reasons. The first is the reduced cost and the second is the instability of the 'outside' third of the street for most of its length.

"... the work needed for this street should be considered a high priority.

"... I do expect the project to be at least proposed for funding in the next fiscal year."

Mr. Chapman said he was also concerned about fire protection, in that the water tanks being installed for the project would provide water for 3 hours and 20 minutes. He said the ladder trucks would not reach more than six stories.

Mr. Chapman also read segments of the State Ridge Law requirements. He recommended that Council accept the recommendation of the Planning and Zoning Commission to deny the project.

Mrs. Lola Myers, with the Asheville Garden Club, said their organization has passed a resolution recommending that the project be rejected.

Dorothy Williams Davis Dodge, of 155 Patton Mountain Road, spoke in opposition to the project, due to increased traffic by the addition of 264 units and because the roads in the area cannot be widened.

Pearl Davis, 33 Sunset Summit, also spoke in opposition to the project, stating concerns relative to erosion control.

Penn Dameron, in rebuttal to comments made by the opposition, said the property in question adjoins the R-1 residential district, but is not zoned R-1 residential district. He said it also adjoins many acres of R-2 residential district. He said the project will not increase the traffic in the area, in that apartments will cause no more traffic than single family dwellings. He said the concern relative to fire protection should not be a basis on which to deny the project, in that there are other buildings in the City of Asheville that are higher than six stories. He said Council should make its decision on approval of the project within the limits of the law.

Upon inquiry of Councilman Price, Mr. Dameron said the proposed structure would be thirty feet higher than the existing structure, because the existing structure is at a lower elevation.

Upon inquiry of Councilman Price, Mr. Dameron said he was not involved in the preparation of the Environmental Impact Study.

George Genson, with Genson Engineering Company, said the project would be thirty feet above the existing tree line in the area.

ANNOUNCEMENT OF CERTIFICATE OF APPOINTMENT OF COMMISSIONER OF THE HOUSING AUTHORITY OF THE CITY OF ASHEVILLE - MRS. EARL L. SHOOK, JR.

3. Vice-Mayor Bratton announced that Mayor McDevitt has reappointed Mrs. Earl L. Shook, Jr. as a Commissioner of the Housing Authority of the City of Asheville.

RESOLUTION NO. 85-118 - RESOLUTION ENDORSING THE ASHEVILLE-BUNCOMBE COUNTY INSURANCE ADVISORY COMMITTEE'S PLAN TO ASSIST OTHER UNITS OF GOVERNMENT IN OBTAINING INSURANCE COVERAGE AND DEVELOPING A RISK MANAGEMENT PROGRAM

4. Consideration was given to a resolution endorsing the Asheville-Buncombe County Insurance Advisory Committee's plan to assist other units of government in obtaining insurance coverage and developing a risk management program.

Vice-Mayor Bratton said this resolution will endorse the Insurance Advisory Committee's plan to assist other units of government in obtaining insurance coverage and developing a risk management program, with assistance to be furnished on a cost basis.

Upon motion of Councilman Price, seconded by Councilman Boland, Resolution No. 85-118 was unanimously adopted.

Complete text of Resolution No. 85-118 will be found in Resolution Book No. 15 at page 258 and 259.

RESOLUTION NO. 85-119 - RESOLUTION AUTHORIZING THE ASHEVILLE-BUNCOMBE COUNTY INSURANCE ADVISORY COMMITTEE TO CHARGE A SERVICE FEE ON INSURANCE POLICIES WHERE NO COMMISSION IS GIVEN

5. Consideration was given to a resolution authorizing the Asheville-Buncombe County Insurance Advisory Committee to charge a service fee on insurance policies where no commission is given.

Vice-Mayor Bratton said the Insurance Advisory Committee wishes to begin charging 6% service fee on insurance policies where no commission is given. This resolution will authorize payment of this fee. The Asheville-Buncombe Insurance Advisory Committee is normally funded from commissions from insurance policies placed on behalf of the City and County. Where policies do not pay commissions, this action allows the Committee to add on a fee of up to 6% of the premium. Funding for said fees is appropriated in the insurance line items in the operating budget.

Upon motion of Councilman Price, seconded by Councilman Boland, Resolution No. 85-119 was unanimously adopted.

Complete text of Resolution No. 85-119 will be found in Resolution Book No. 15 at page 260 and 261.

Tuesday - July 16, 1985 - 4:00 p.m.

Regular Meeting

Present: Presiding; Vice-Mayor Wilhelmina Bratton; Councilmen Mary Lloyd Frank, Norma T. Price, Walter R. Boland; Corporation Counsel William F. Slawter; City Manager Neal Creighton; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Mayor Larry McDevitt, Councilman Gordon Myers, and Louis Bissette.

INVOCATION

The invocation was given by Vice-Mayor Bratton.

APPROVAL OF THE MINUTES - OF THE JULY 2, 1985 MEETING

1. Approval of the minutes of the July 2, 1985 meeting.

Vice-Mayor Bratton announced the approval of the minutes as submitted.

ORDINANCE NO. 1526 - AN ORDINANCE AMENDING SECTION 28-81.3 OF ARTICLE IV, SPEED REGULATIONS, OF CHAPTER 28 OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE

2. Consideration was given to Ordinance No. 1526, an ordinance amending Section 28-81.3 of Article IV, speed regulations, of chapter 28 of the Code of Ordinances of the City of Asheville.

Vice-Mayor Bratton said the Traffic Engineering Division of the Public Works Department has received a request from the Ballantree Homeowners Association to establish a 25 mile per hour speed limit on all streets within the Ballantree Development. The streets affected by this proposed ordinance are: 1) Ballantree Drive (between Sweeten Creek Road and Elmwood Lane; 2) Braddock Way; 3) Campbell Circle; 4) Aspen Way; 5) Gardenwood Drive; 6) Gardenwood Lane; 7) Elmwood Lane.

Vice-Mayor Bratton said members of Council were furnished copies of the ordinance and it would not be read in its entirety.

Councilman Frank moved for the adoption of Ordinance No. 1526. This motion was seconded by Councilman Boland.

On a roll-call of 4-0, Ordinance No. 1526 passed on first reading.

RESOLUTION NO. 85-122 - RESOLUTION AUTHORIZING THE CLOSING OF CERTAIN STREETS IN DOWNTOWN ASHEVILLE RELATIVE TO THE BELE CHERE FESTIVAL

9. Consideration was given to a resolution authorizing the closing of certain streets in downtown Asheville relative to the Bele Chere Festival.

Vice-Mayor Bratton said this resolution will approve closing several streets in the downtown area at certain times of the day during the Bele Chere Festival, which will be held July 26-28.

Upon motion of Councilman Frank, seconded by Councilman Price, Resolution No. 85-122 was unanimously adopted.

Complete text of Resolution No. 85-122 will be found in Resolution Book No. 15 at page 264 and 265.

PETITION

10. Mr. Ned Gutman, a resident of Redwood Forest, presented a petition from homeowners of the Redwood Forest Subdivision and Shawnee Trail, requesting that Council proceed with scheduling the public hearings necessary to rezone their property from R-2 Residential District to R-1 Residential District.

Vice-Mayor Bratton advised Mr. Gutman that Council would schedule a work session on the request, and that staff would let him know when this matter would be discussed by Council.

RALPH BISHOP - LOTTERY SALES AND PERSONNEL RECORDS

11. Ralph Bishop again spoke to members of Council relative to lottery sales in the City of Asheville and his inability to obtain personnel records.

ADJOURNMENT

Counilman Price moved to adjourn the meeting at 4:45 p.m.. This motion was seconded by Councilman Boland.

Larry M. Davis
MAYOR

Marcia S. Metcalf
CITY CLERK

RESOLUTION NO. 85-120 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH THE LAND-OF-SKY REGIONAL COUNCIL FOR THE ENERGY PROGRAM

6. Consideration was given to a resolution authorizing the City Manager to enter into an agreement with the Land-of-Sky Regional Council for the energy program.

Vice-Mayor Bratton said the Land-of-Sky Regional Council has conducted an Energy Officer Program in which the City has participated. Savings have resulted from this, and the City desires to continue with this program. The Local Govern-

Upon motion of Councilman Boland, seconded by Councilman Frank, Resolution No. 85-120 was unanimously adopted.

Complete text of Resolution No. 85-120 will be found in Resolution Book No. 15 at page 262.

RESOLUTION 85-121 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT WITH THOMPSON-GORDON-SHOOK ENGINEERS, INC. FOR A STRUCTURAL EVALUATION OF THE CIVIC CENTER PARKING GARAGE.

7. Consideration was given to a resolution authorizing the Mayor to execute an agreement with Thompson-Gordon-Shook Engineers, Inc. for a structural evaluation of the Civic Center parking garage.

Vice-Mayor Bratton said this resolution will approve the engineering proposal submitted in the amount of $2,250.00 for providing structural evaluation and recommending maintenance or structural improvement needs for the Civic Center parking garage. Thompson-Gordon-Shook Engineers, Inc. had the lowest proposal. Funding for the structural analysis is included in the budget.

Upon motion of Councilman Frank, seconded by Councilman Price, Resolution No. 85-121 was unanimously adopted.

Complete text of Resolution No. 85-121 will be found in Resolution Book No. 15 at page 263.

CLAIMS - MILDRED MORRIS (WATER) - JERRY GROOMS (WATER) - FRANCES PENLAND (WATER) - CHARLES MORGAN (SANITATION) - JAMES BAKER (WATER) - CORDA MANNEY (STREETS) - MRS. HUB WILLIAMS (WATER) - A.E. TREADWAY (STREETS)

8. The City Manager presented claims from Mildred Morris (Water) - Jerry Grooms (Water) - Frances Penland (Water) - Charles Morgan (Sanitation) - James Baker (Water) - Corda Manney (Streets) - Mrs. Hub Williams (Water) - A. E. Treadway (Streets).

Vice-Mayor Bratton referred the claims to the Corporation Counsel for investigation and recommendation.

A discussion was held relative to the traffic in this particular area. Mr. Emrick said that the City staff and the developer for the project would monitor internal traffic.

Vice-Mayor Bratton closed the public hearing at 4:17 p.m.

Councilman Boland moved to approve the site plan of the proposed River Ridge Apartments to be located at 800 Fairview Road subject to the Planning and Zoning Commission's recommendation. This motion was seconded by Councilman Frank and carried unanimously.

ORDINANCE NO. 1526 - AN ORDINANCE AMENDING SECTION 28-81.3 OF ARTICLE IV, SPEED REGULATIONS, OF CHAPTER 28 OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE

3. Consideration was given to the second reading of Ordinance No. 1526, an ordinance amending Section 28-81.3 of Article IV, speed regulations, of Chapter 28 of the Code of Ordinances of the City of Asheville.

Vice-Mayor Bratton said the Traffic Engineering Division of the Public Works Department has received a request from the Ballantree Homeowners Association to establish a 25 mile per hour speed limit on all streets within the Ballantree Development. The streets affected by this proposed ordinance are: 1) Ballantree Drive (between Sweeten Creek Road and Elmwood Lane; 2) Braddock Way; 3) Campbell Circle; 4) Aspen Way; 5) Gardenwood Drive; 6) Gardenwood Lane; and 7) Elmwood Lane. This ordinance was read on first reading at the June 16, 1985 meeting.

Vice-Mayor Bratton said this ordinance was previously read on first reading and would not be reread unless there was a specific request to do so.

On a roll call vote of 5-0, Ordinance No. 1526 passed on second reading.

RESOLUTION NO. 85-123 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A LEASE BY AND BETWEEN THE CITY OF ASHEVILLE AND THE FRATERNAL ORDER OF POLICE

4. Consideration was given to a resolution authorizing the City Manager to execute a lease by and between the City of Asheville and the Fraternal Order of Police.

Vice-Mayor Bratton said the City owns the property at the Asheville Airport which is not necessary for the operation of the Airport. In the interest of developing training and efficiency in the Asheville Police Department, the City desires to lease this property to the Fraternal Order of Police. Both have agreed to the terms and conditions of the lease. The fiscal impact would be twenty dollars ($20.00) - one dollar ($1.00) per year beginning April 15, 1985, and ending April 14, 2005. This item is budgeted in the 1985-86 budget.

Vice-Mayor Bratton said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Price, seconded by Councilman Bissette, Resolution No. 85-123 was unanimously adopted.

Complete text of Resolution No. 85-123 will be found in Resolution Book No. 15 at page 266.

Tuesday - July 23, 1985 - 4:00 p.m.

Regular Meeting

Present: Vice-Mayor Wilhelmina Bratton, Presiding; Councilmen Louis Bissette, Mary Lloyd Frank, Norma T. Price, Walter R. Boland; Corporation Counsel William F. Slawter; City Manager Neal Creighton; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Mayor Larry McDevitt, Councilman Gordon Myers.

INVOCATION

The invocation was given by Councilman Mary Lloyd Frank.

APPROVAL OF THE MINUTES - JULY 16, 1985 MEETING

1. Approval of the minutes of the July 16, 1985 meeting.

Vice-Mayor Bratton announced the approval of the minutes as submitted.

PUBLIC HEARING - SITE PLAN OF PROPOSED RIVER RIDGE APARTMENTS - 800 FAIRVIEW ROAD

2. A public hearing was held relative to the site plan of the proposed River Ridge Apartments to be located at 800 Fairview Road.

Vice Mayor Bratton said the Asheville Planning and Zoning Commission at a meeting held June 12, 1985, reviewed the site plan of the proposed River Ridge Apartments to be located at 800 Fairview Road. The site plan was prepared by Carrol Hughes, Architect, for Bob Hughes and Associates, Raleigh, N.C., Developer, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of the site plan to City Council subject to compliance with the Erosion Control Ordinance and the Flood Plain Ordinance.

Vice-Mayor Bratton opened the public hearing at 4:04 p.m.

The City Clerk presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said the Asheville Planning and Zoning Commission had recommended approval of the site plan subject to compliance with the Erosion Control Ordinance and the Flood Plain Ordinance. He said the project would consist of 230 units in three phases. He said five units would be constructed in the flood plain area, and there would be no construction in the floodway area. He said the units to be constructed in the flood plain must be submitted to the Engineering Department and the Board of Adjustments for approval to assure compliance with the Flood Plain Ordinance. He said the roads in the project would remain private, but would be constructed according to City standards.

Vice-Mayor Bratton said the Asheville Planning and Zoning Commission at a meeting held April 3, 1985, reviewed the site plan of the proposed "Hazelwood Mobile Home Court" to be located on North Louisiana Avenue. The site plan was prepared by Associated Land Technologies, Engineer, for Walter Weiss and Frank McGahren (W&M Investment), Developers, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of the site plan to City Council subject to the 6-inch water line being extended to fire hydrant, buffering along adjacent subdivision lots, no extension of roads into subdivision, and compliance with Erosion Control Ordinance.

Councilman Price moved to schedule a public hearing relative to the site plan for the proposed "Hazelwood Mobile Home Court" to be located on North Louisiana Avenue for August 6, 1985. This motion was seconded by Councilman Bissette and carried unanimously.

SCHEDULING OF PUBLIC HEARING - FINAL PLAT OF PHASE TWO OF THE HAZELWOOD SUBDIVISION TO BE LOCATED ON NORTH LOUISIANA AVENUE

8. Consideration was given to a motion scheduling a public hearing relative to the final plat of Phase Two of the Hazelwood Subdivision to be located on North Louisiana Avenue for August 6, 1985.

Vice-Mayor Bratton said the Asheville Planning and Zoning Commission at a meeting held April 3, 1985, approved the preliminary plat subject to buffering on Lots 36 through 47 and compliance with the Erosion Control Ordinance. Phase Two of the Hazelwood Subdivision is to be located on North Louisiana Avenue. This plat was prepared by S. V. Griffith, R.L.S. for Frank McGahren and Walter Weiss, Developers, and submitted in accordance with Ordinance 424, as amended.

Councilman Frank moved to schedule a public hearing relative to the final plat of Phase Two of the Hazelwood Subdivision to be located on North Louisiana Avenue for August 6, 1985. This motion was seconded by Councilman Price and carried unanimously.

RESOLUTION NO. 85-124 - RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN THE NECESSARY CONTRACTS FOR THE PURCHASE, INSTALLATION, AND MAINTENANCE OF A MICRO-COMPUTER SYSTEM AND OPERATING SYSTEM FOR THE ASHEVILLE POLICE DEPARTMENT

9. Consideration was given to a resolution authorizing the City Manager to sign the necessary documents for the purchase, installation, and maintenance of a microcomputer system and operating system for the Asheville Police Department.

Vice-Mayor Bratton said sealed bids were invited to furnish computer equipment for use by the Asheville Police Department. One (1) bid was received. It is recommended to award a contract to Burroughs Corporation, Asheville, N.C. for the purchase, installation and maintenance of this equipment. This bid has been reviewed by the City's Data Processing Division and was found to be in compliance with the bid specifications. The cost of equipment, hardware and software totals $39,223.00. Funds for this purchase will come from FY 84-85 appropriations account code 50-460-0740 and 10-460-0740. Funds for the maintenance of this equipment will come from FY 85-86 appropriations.

ORDINANCE NO. 1527 - BUDGET ORDINANCE AMENDMENT TO PROVIDE FUNDING FOR THE 1985-86 COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM PROJECTS

5. Consideration was given to a budget ordinance amendment to provide funding for the 1985-86 Community Development Block Grant program projects.

Vice-Mayor Bratton said consideration was given to provide funding for the 1985-86 Community Development Block Grant program projects. The entitlement for 1985-86 of the City of Asheville in the amount of $1,382,000.

Vice-Mayor Bratton said members of Council were furnished copies of the ordinance and it would not be read in its entirety.

Councilman Price moved for the adoption of Ordinance No. 1527. This motion was seconded by Councilman Boland.

On a roll call vote of 5-0, Ordinance No. 1527 passed on first and final reading.

Complete text of Ordinance No. 1527 will be found in Ordinance Book No. 10 at page 289.

SCHEDULING PUBLIC HEARING - SITE PLAN OF PROPOSED BELVEDERE CONDOMINIUMS - BEAVERDAM ROAD

6. Consideration was given to a motion scheduling a public hearing for August 6, 1985, relative to the site plan of the proposed Belvedere Condominiums to be located on Beaverdam Road.

Vice-Mayor Bratton said the Asheville Planning and Zoning Commission at a meeting held July 10, 1985, reviewed the site plan of the proposed "Belvedere Condominiums" to be located on Beaverdam Road. The site plan was prepared by McGill Associates, Engineers, for Condominium Builders, Inc., Winston-Salem, N.C., Developer, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of the site plan to City Council subject to final approval of the driveway cut by the North Carolina Department of Transportation, compliance with the Erosion Control Ordinance, and contingency that water and sewer are available to the site.

Councilman Bissette moved to schedule a public hearing relative to the site plan of the proposed Belvedere Condominiums to be located on Beaverdam Road for August 6, 1985. This motion was seconded by Councilman Price and carried unanimously.

A discussion was held, initiated by Councilman Boland, relative to requiring developers to have drawings available for Council on site plans and group developments.

SCHEDULING PUBLIC HEARING - SITE PLAN OF PROPOSED "HAZELWOOD MOBILE HOME COURT" - NORTH LOUISIANA AVENUE

7. Consideration was given to a motion scheduling a public hearing relative to the site plan of the proposed "Hazelwood Mobile Home Court" to be located on North Louisiana Avenue for August 6, 1985.

TO: HONORABLE MEMBERS OF ASHEVILLE CITY COUNCIL
SUBJECT: RE-SURFACING AND MAINTENANCE OF STEEP SECTION OF KILLIAN ROAD

Dear Sir:

We, the signers of this petition are residents and/or property owners of the steep section of Killian Road. We wish that officials in charge of our tax money had heeded our pleas to fix the road and not the bridge. As it now seems, we are going to end up with an expensive bridge ($67,372) and a pot hole road. The money probably can be replaced by taxpayers, but the approximately 1/2 acre of rich, loam farmland that is covered with dirt and stone is ruined permanently. Possibly, some of you have been reading about the concern of destroying farmland in North Carolina.

In a letter from Mr. Larry Ward, PRD Director of Public Works, to Mr. T. Clark Brown, Director of Public Works, dated March 2, 1984, quote "Killian Road was state maintained up to the second road turning left which I believe is named Killian Lane. This is the only portion that became a city street. City standards would mean that there would have to be minimum of 20 feet of right-of-way with a minimum of 16 feet of paved road." The black-top of Killian Lane is 14 feet at the widest point and narrows down to 10 feet at narrow point. Killian Lane was re-surfaced in 1982 by the city. This was when officials refused to re-surface the 353 feet of steep end of Killian Road.

We say that city officials who say the end of Killian Road is a private drive are wrong. We don't believe that city maps shows private drives. As you can see on the attached map, it shows all of Killian Road. This steep part of Killian Road was paved by city in about 1972 or 1973. Since then the city has installed a street light and patching of the road. We understand that it is city's obligation to continue maintenance of a street unless requested to discontinue by petition of residents.

We respectfully request that city council order the re-surfacing of subject street (as is) in the warm months of 1985.

Respectfully,

Residents of Killian Road

Stanley Masters
Martha Masters
Betty M. Nelon
George A. Nelon, Jr.
Bobby L. Troutman
Carmen Troutman
Hershal D. Effler
Ada M. Effler
Gary A. Reinhardt
Bill & Debbie Stamy
Jean M. Lure
Meredith S. Wanes
Mrs. Harold H. Wanes

Vice-Mayor Bratton informed Mrs. Nelon that the staff would be researching the request, and Council would be back in touch relative to the petition.

Vice-Mayor Bratton said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Price, seconded by Councilman Frank, Resolution 85-124 was unanimously adopted.

Complete text of Resolution No. 85-124 will be found in Resolution Book No. 15 at page 267.

AUTHORIZING CITY MANAGER TO SIGN LETTER OF INDEMNIFICATION - BELE CHERE HEADQUARTERS - LEGAL BUILDING

10. Councilman Bissette moved that the City Manager be authorized to execute a letter of indemnification to be given to Pack Plaza Associates, Limited Partnership, in order that the City may be able to use the Legal Building as headquarters for the Bele Chere festival for July 26-28, 1985.

This motion was seconded by Councilman Boland and carried unanimously.

WILLIAM DARDEN - SPRINGSIDE DRIVE - PROBLEMS IN RECEIVING A PERMIT TO KEEP CATS.

11. Mr. Darden of Springside Drive spoke to Council relative to his problem in obtaining a permit to keep more than six cats on his property. He said several animal control officers had been to his house to investigate whether or not he could obtain a permit. He said all of the animal control officers had indicated that they would approve him obtaining a permit. He said he was told that the City Manager's office had informed the Police Department not to issue the permit. He asked members of Council why his permit had not been issued.

Councilman Price said she had received a number of complaints relative to the cats at the Springside Drive residence.

Upon inquiry of Councilman Price, Mr. Darden said he presently has thirty-six cats.

Vice-Mayor Bratton requested that Mr. Darden make an appointment with the City Manager relative to his problem in obtaining a permit to keep the cats.

RALPH BISHOP - OBTAINING RECORDS RELATIVE TO THE POLICE PENSION BOARD

12. Mr. Bishop again spoke to members of Council relative to his difficulty in obtaining Police Pension Board Records.

PETITION - RESURFACING AND MAINTENANCE OF STEEP SECTION OF KILLIAN ROAD

13. Mrs. Betty Nalon, 32 Killian Road, read the following petition requesting the resurfacing and maintenance of the upper portion of Killian Road.

In summary, Mr. Jarvis, Attorney for Mr. Kuykendall, stated that Mr. Kuykendall was employed by the City of Asheville as a Police Officer in 1960, and was first injured in a traffic accident in 1969 on Tunnel Road where he was hit by an automobile and sustained injuries. He said Mr. Kuykendall had never fully recovered from that accident, however, after the accident in 1969, Mr. Kuykendall was put back to work in the Police Department doing light duty which continued for 10 years. He said on July 20, 1979, Mr. Kuykendall had been assigned to maintenance in the Police Department and was removing a counter to lay tile. He said in removing the counter Mr. Kuykendall found resistance and hurt his back which caused immediate acute problems. He said Mr. Kuykendall had been treated by his family physician, Dr. Waller, and had been examined by the North Carolina Baptist Hospital, Dr. Jarrett, and an orthopedic doctor, Dr. Capiello, at the request of the City of Asheville, and Dr. Wilson. He said in the end result, Dr. Wilson had identified a chronic inflammation of the muscle and connecting tissues which is called HLA-B 27. He said Mr. Kuykendall cannot stand or sit for any length of time without acute pain. He said the illness arose from the two incidences while working with the Asheville Police Department. He said Mr. Kuykendall is permanently and totally disabled.

Mr. Jarvis detailed each document presented to members of Council.

Mr. Kuykendall, upon questioning by Mr. Jarvis, detailed the injuries occuring while working at the Asheville Police Department in 1969 and in 1979 and his treatments by several doctors since that time.

Mr. Kuykendall was then cross-examined by Corporation Counsel Slawter.

In summary, Mr. Slawter questioned Mr. Kuykendall relative to his current treatment by Dr. Waller and the medications being taken by Mr. Kuykendall. Mr. Kuykendall indicated that he was unable to do any work at all. He said his only source of income was from Police Pension Benefits and his wife's income. Mr. Kuykendall said he was in the hospital the last time in December, 1980, for his back problems at which time Dr. Wilson had diagnosed his HLA-B- 27. Mr. Slawter asked Mr. Kuykendall to identify some pictures of Mr. Kuykendall's house and yard. Mr. Kuykendall identified such pictures, and indicated that Tuesdays and Wednesday are his best days since he receives a weekly shot from Dr. Waller for his condition, and that when he was seen working in his yard was probably on a Tuesday or Wednesday.

Corporation Counsel Slawter requested that he and Mr. Jarvis be allowed to make a list of all the documents presented to the Council as evidence and any other documents that they wish to make a part of the record, and make the list and documents a part of the minutes of this meeting.

In his closing statement, Mr. Jarvis said that Mr. Kuykendall had been injured twice while working with the Asheville Police Department and continues to receive medical attention; has continual pain and is permanently disabled for reasons of work being done for the City of Asheville. He requested that Council award Mr. Kuykendall in line of duty disability benefits.

Vice-Mayor Bratton closed the hearing at 6:40 p.m.

CLAIMS - BILLIE MONTEATH (WATER) - ED PULLIAM (WATER) - LES NOWINSKI (STREETS) - BELINDA WHITE (POLICE)

14. The City Manager presented claims received from Billie Monteath (Water), Ed Pulliam (Water), Les Nowinski (Streets), and Belinda White (Police).

Vice-Mayor Bratton referred the claims to the Corporation Counsel for investigation and recommendation.

COUNCIL RECESS

Vice-Mayor Bratton declared a five minute recess of Council.

APPEAL HEARING - H. R. KUYKENDALL - REQUEST FOR LINE OF DUTY DISABILITY RETIREMENT

15. An appeal hearing was held in the matter of H. R. Kuykendall's request for line of duty disability retirement.

Vice-Mayor Bratton said H. R. Kuykendall is appealing the decision of the Board of Examiners and the decision of the Board of Trustees of the Asheville Policeman's Pension and Disability Fund to the Asheville City Council for in line of duty disability retirement.

Vice-Mayor Bratton explained the procedure to be followed during the appeal hearing.

Mr. H. R. Kuykendall was sworn in by Vice-Mayor Bratton.

Scott Jarvis, attorney for H. R. Kuykendall, offered the following as evidence in the hearing;

1. Letter from Dr. Joe Burleson dated July 20, 1970.
2. Report from Dr. William Wilson - Memorial Mission Hospital - 11/30/79.
3. Report from Dr. Wilson - 2/12/80 - 2/25/80 - 3/4/80 - 3/11/80 - 4/8/80 - 5/7/80.
4. Letter from Dr. Louis Waller - November 17, 1980.
5. Letter from Dr. Louis Waller dated November 19, 1980.
6. Letter from Dr. William Wilson to Dr. Louis Waller dated June 29, 1981.
7. Letter from Dr. David Jarrett dated March 25, 1982.
8. Memorandum from Dr. William Wilson to Whom It May Concern dated May 20, 1982.
9. Letter from Dr. Louis Waller to Attorney Scott Jarvis dated June 18, 1984.
10. Copy of Worker's Compensation Report dated March 18, 1980.
11. Opinion and award - North Carolina Industrial Commission dated December 2, 1980.
12. Opinion and award from North Carolina Industrial Commission dated May 12, 1982.
13. Affidavit of James Hadden dated April 9, 1980.

(Note: A copies of all documents are attached to the original minutes of this meeting.)

EXHIBITS FROM POLICE PENSION FILE

(a) Records of hospitalization of Mr. Kuykendall at Memorial Mission Hospital beginning October 21, 1979 and ending December 7, 1979

(b) Letter dated June 18, 1984, from Dr. Louis C. Waller to Scott Jarvis

(c) Letter dated May 20, 1982, from Dr. William F. Wilson to Whom it May Concern

(d) Order from the North Carolina Industrial Commission filed January ., 1983

(e) Agreement of Final Compromise Settlement and Release dated November 30, 1982

(f) Opinion and Award from the North Carolina Industrial Commission filed May 12, 1982

(g) Letter dated March 25, 1982, from Dr. David L. Jarrett to Wesley Talman

(h) Letter dated June 29, 1981, from Dr. William F. Wilson to Louis Waller

(i) Opinion and Award from the North Carolina Industrial Commission filed December 2, 1980

(j) Letter dated November 17, 1980, from Dr. Louis C. Waller to Whom it May Concern

(k) Affidavit of James Calvin Hadden dated April 9, 1980

(l) Letter dated April 3, 1985, from Bill Shuford, Jr., to William F. Wolcott

(m) Memorandum/with attachment (identified as [n] below) dated June 21, 1985, from Bill Slawter to Lla Leet Hudson

(n) Letter dated June 11, 1985, from Scott E. Jarvis to William F. Slawter

(o) Letter dated February 21, 1985, from Lla Leet L. Hudson to Scott F. Jarvis

(p) Letter dated March 30, 1981, from Dr. David L. Cappiello to Richard S. Daniels

(q) Letter dated November 17, 1981, from Lla Leet L. Hudson to J. Lawrence Smith

(r) Minutes of the Board of Trustees of the Asheville Policemen's Pension and Disability Fund meeting of January 18, 1935

(s) Minutes of the Board of Examiners and Board of Trustees of the Asheville Policemen's Pension and Disability Fund meeting of November 26, 1984

After discussion, it was mutually agreed by Council and Mr. Jarvis, Mr. Kuykendall's attorney, that Council would deliberate the appeal in executive session on July 30, 1985, and render their decision in an open meeting on August 6, 1985.

(A tape recording of the hearing is available in the office of the City Clerk).

ADJOURNMENT

Upon motion of Councilman Price, seconded by Councilman Bissette, the meeting adjourned at 6:50 p.m.

Larry McDevitt
MAYOR

William J. Hallett
CITY CLERK

ASHEVILLE POLICEMEN'S PENSION AND DISABILITY FUND

Board of Examiners

BOARD OF TRUSTEES

February 10, 1981

RECEIVED
FEB 23 1981

Medical Records Department
Memorial Mission Hospital
Biltmore Avenue
Asheville, North Carolina 28801

Dear Sir:

The Board of Examiners for the Asheville Policemen's Pension and Disability Fund is currently investigating the eligibility of Hartman R. Kuykendall for disability retirement under the above named plan.

In order to determine this individual's eligibility, the Board of Examiners is required to review the complete medical history of each applicant for retirement. To facilitate this review, I am requesting, on behalf of the Board of Examiners, that copies of all medical records pertaining to Hartman R. Kuykendall be forwarded to the Board, and in particular, medical records relating to confinement for treatment resulting from an accident in August, 1969. I have attached a copy of a Medical Release Authorization from Mr. Kuykendall to this letter.

Thank you for your cooperation in this matter and please let me know if I may be of assistance to you in expediting this request.

Very truly yours,

Lla Leet L. Hudson

Lla Leet L. Hudson
Fringe Benefits Administrator

LLH:s

Attachment

P.O. Box 7148 • Asheville, North Carolina 28807

(t) Minutes of the Board of Examiners and Board of Trustees of the Asheville Policemen's Pension and Disability Fund meeting of December 21, 1981

(u) Minutes of the Board of Examiners and Board of Trustees of the Asheville Policemen's Pension and Disabiltiy Fund meeting of February 23, 1981

(v) Minutes of the Board of Examiners and Board of Trustees of the Asheville Policemen's Pension and Disability Fund meeting of January 19, 1981

(w) Letter dated March 16, 1981, from J. Lawrence Smith to Lla Leet Hudson

(x) Letter dated February 10, 1981, from Lla Leet L. Hudson to Medical Records Department, Duke Hospital

(y) Office notes dated September 3, 1969, from Dr. N. L. Burkhardt

(z) Letter dated February 10, 1981, from Lla Leet L. Hudson to Asheville Orthopaedic Associates

(aa) Letter dated May 1, 1970, from Dr. Millard F. McKeel to R. Joe Burleson

(bb) Office notes dated May 29, 1970, from Dr. McKeel

(cc) Office notes dated November 30, 1979, from Dr. William F. Wilson

(dd) Letter dated November 19, 1980, from Dr. Louis C. Waller to Larry Smith

(ee) Letter dated November 17, 1980, from Dr. Louis C. Waller to Whom it May Concern

236

CONSENT UPON ADMISSION TO MEMORIAL MISSION HOSPITAL OF WESTERN NORTH CAROLINA, INCORPORATED ("MISSION") FOR ROUTINE DIAGNOSTIC PROCEDURES AND MEDICAL TREATMENT

DATE 10-31 19 79 TIME 2:05 (A.M.) (P.M.)

I (OR X Hartman Kyle Hall FOR THE PATIENT) KNOWING THAT I AM (OR THE PATIENT IS) SUFFERING FROM A CONDITION(S) REQUIRING HOSPITAL CARE, DO HEREBY AUTHORIZE AND CONSENT TO SUCH HOSPITAL CARE AT MISSION ENCOMPASSING ROUTINE DIAGNOSTIC PROCEDURES (INCLUDING BUT NOT LIMITED TO X RAYS AND DRAWING OF BLOOD AND OTHER LABORATORY WORK) AND MEDICAL TREATMENT BY THE ATTENDING PHYSICIAN REFERRED TO IN THE MEDICAL RECORD, HIS ASSISTANTS OR DESIGNEES, AS IS NECESSARY IN HIS JUDGEMENT

I KNOW THAT THE PRACTICE OF MEDICINE AND SURGERY IS NOT AN EXACT SCIENCE, AND I ACKNOWLEDGE THAT NO GUARANTEES HAVE BEEN MADE TO ME BY ANYONE AS TO THE RESULT OF ANY PROCEDURE, TREATMENT OR EXAMINATION AT MISSION

THIS FORM HAS BEEN FULLY EXPLAINED TO ME, AND I UNDERSTAND ITS CONTENTS

SIGNED IN THE PRESENCE OF

Karen Hinton X Hartman Kyle Hall
SIGNATURE

IF THE PATIENT IS A MINOR AND/OR IS UNABLE TO CONSENT, PLEASE COMPLETE THE FOLLOWING

(A) THE PATIENT IS A MINOR _____ YEARS OF AGE

(B) THE PATIENT IS UNABLE TO CONSENT BECAUSE _____

_____

SIGNED IN THE PRESENCE OF

_____ _____
SIGNATURE

COMPLETE FOR MEDICAL STATISTICS AND INSURANCE

MEMORIAL MISSION HOSPITAL, ASHEVILLE, NC

SERVICE Rheum

PRIMARY DIAGNOSIS: Acute cervical and Lumbar Strain and Dorsal Muscle spasm. — CODE 724.6

SECONDARY DIAGNOSIS: Ruled out cervical and Lumbar discs rupture

COMPLICATIONS:

PRIMARY SURGERY: Cervical and lumbar myelogram. (11-28-79 NAT) — 87.21

SECONDARY SURGERY:

HOSPITAL INFECTIONS: [redacted]

SHOW INDEXING

CCU DATE IN / DATE OUT | IRU DATE IN / DATE OUT | AMBULATORY DATE IN / DATE OUT

DISCHARGE STATUS: ✓ ALIVE | EXP | OTHER | DEAD 48 hr | DEATH OR AUTOPSY | DIAGNOSIS ONLY

I HAVE EXAMINED AND I APPROVE ALL THE ITEMS WHICH I MYSELF HAVE WRITTEN OR ORDERED IN THIS COMPLETED MEDICAL RECORD

SIGNATURE OF ATTENDING PHYSICIAN E L Waller DATE JAN 9 1980

PATIENT LAST NAME KUYKENDALL FIRST HARTMAN
MIDDLE RANKIN MAIDEN
ADDRESS 46 RUSSELL AVE
CITY ASHEVILLE STATE N.C. ZIP CODE 28806
COUNTY BUNCOMBE TEL NO 704 255 0398
AGE 47Y DATE OF BIRTH 120431 PLACE OF BIRTH BUNCOMBE SOC SEC NO 242 36 8316
RACE M SEX W MARITAL STATUS M RELIGION EP
RESPONSIBLE PARTY HARTMAN R KUYKENDALL RELATION TO PATIENT SELF
ADDRESS 46 RUSSELL AVE
CITY ASHEVILLE STATE N.C. ZIP CODE 28806
SOC SEC NO 242 36 8316 TEL NO 704 255 0398
EMPLOYER POLICE DEPARTMENT EMPLOYER ADDRESS ASHEVILLE
OCCUPATION VEHICLE MAINT COORDINA HOW LONG EMPLOYED 14 YEARS
SPOUSE'S NAME ELIZABETH EMPLOYER SOUTHERN BELL
CITY [redacted] ASHEVILLE OCCUPATION OPERATOR HOW LONG EMPLOYED 10YR
REFERRED BY 103079 PREADMITTED NO INSURANCE
DATE VALUABLES YES NONE CURRENT YES ADDITIONAL INSURANCE EH

ACCT NO 398128 8 MED REC NO 37550
ADM DATE 103179 TIME 0150E
DATE OF DISCHARGE 12/7/79 TIME
ROOM NO 2-A-2 BED NO 023 STATUS AC
ATTENDING PHYSICIAN WALLER L C INITIALS DLS
OPERATING PHYSICIAN CODE 126 CONSULT CODE 10 WEK
RESIDENT PHYSICIAN NAT
REFERRING PHYSICIAN CODE TYPE
ACCIDENT PHYSICIAN
ASSISTANT CODE TYPE
ANESTHESIOLOGIST
ACUTE CERVICAL & LUMBO-SACRAL STRAIN
ROUTINE ADMISSION? X EMERGENCY ADMISSION?
DIETARY B
NEXT OF KIN ELIZABETH
RELATION WIFE
ADDRESS SAME-A. PI
DAY TIME TEL NO 704 255 0398
EVENING TEL NO

MEMORIAL MISSION HOSPITAL OF W. N. C., INC.

Date _____ Hour _____ a.m. p.m.

ORDER OF RECORDING

Include

1. Chief Complaint
2. History of Present Illness
3. History of Past Illness
   a) childhood
   b) adult
   c) operations
   d) injuries
4. Family History
5. Social History
6. Systemic Review
   a) General
   b) Skin
   c) Head-Eyes-Ears-Nose-Throat
   d) Neck
   e) Respiratory
   f) Cardio-vascular
   g) Gastro-intestinal
   h) Genita-urinary
   i) Gyneco-logical
   j) Locomotor
   k) Neuro-psychiatric

C.C acute pain in neck & upper back

Present Illness Nov. 8 1978 while lifting bales of hay pt noted pain in cervical area and down R arm. Clinical Exam, pictures taken. Rx'ed Naprosyn & Valium. He was given Darvocet & made appointment with Dr. Some temporary help, but pain recurred, his pain has persisted on & off. He was seen in consultation by Dr. Weiss who said chronic "Chronic scalenus & cervical strain" Since physiotherapy gave very little relief, he was admitted for additional therapy

Past History - allergic to penicillin & sensitive to oral medications. No major surgery, auto accident 10 years ago - 2 stitches in tongue

Family History - non-contributory to present illness.

Social married couple 2 children

Systems - HEENT, Cardiovascular, GI, GU, Resp, Musculoskeletal, Neurologic & Psychiatric unremarkable

D. O. Walls
Signature

PHYSICIAN'S ORDERS

[illegible] HARTMAN RANKIN
[illegible] 10-31-78

MEMORIAL MISSION HOSPITAL OF W. N. C., INC.

Discharge Summary 12-7-29

Admitted 10-31-29 for acute pain in Neck and Dorsal and Lumbar areas.

Findings - marked muscle tenderness and spasm in Neck, Trapezius, Dorsalis & Lumbo Spinalis Muscles.

Neg Cervical & Lumbar Myelogram. Chest & Bony Neg.

Consultants - Drs Jarrett & Bill Hudson.

Bone scans Neg CPK Normal - Thyroid Basal neg 46% Lymph 42% Poly 3 Eos & 1 Stripped 2 Sedate Normal

Course of given Traction Hot pack & Diet Improved to only moderate relief for a short time. Discharged today & instructed to report for X Ray following an Aspirin & Quinine & Antiluetin. Neg Wass. Urinalysis not done possible.

Final diagnosis

Acute cervical, Dorsal & Lumbar Strain

Ruled out Cervical & Lumbar Disease

L C Waller

Kay Kendall, Dietitian

Dr Waller

PROGRESS RECORD

240 Mr. Hartman Kuykendall

Dr. Jarrett

4228

MEMORIAL MISSION HOSPITAL OF W. N. C. Inc.

ASHEVILLE, NORTH CAROLINA

cc: Dr. L. C. Waller

Dictated 11/16/79.

CONSULTATION.

47 year old Caucasian male.

CHIEF COMPLAINT: Neck and back pain.

HISTORY: This gentleman in August of 1969 was directing traffic here in Asheville. He was hit from behind by a lawyer and knocked up into the air. He states that he was knocked out of his shoes, that he hit the pavement on his head and was momentarily knocked out. He was brought to the emergency room here at Mission, his head was inspected, he had a lacerastion. It was sewed up and apparently his x-rays were negative.

Following that, he had pain in his neck and back which persisted. He apparently was seen at Duke and was told that he had had some muscle and nerve injury and that they could not do anything for him, that he would have to live with the pain. He also was hospitalized here at Mission by Dr. McKeel, and according to the patient, had two myelograms and was told after the second myelogram that he was going to need to have surgery and then the surgery was abruptly cancelled and there was no reason given to him for the cancellation. Since that time, he has had pain in his neck and back. He has tolerated it, however, he has continued to work at the police department. He states that he has been unable to do any yard work at home or garden work which he did do previous to this. He has, however, been able to ride in a car without back pain, but he does have pain in his neck. He also has pain in his neck when he tries to look up, rotating his chin backward or extending the neck. He has severe pain and is hardly able to tolerated it.

About two weeks ago, he was putting some tile down at his home. He states that the job needed to be done and that he could not get anyone to do it, and he was simply trying to get work done. He apparently was in a leaning over position most of the time and when he tried to straighten up he could not get up and the pain was so severe he could hardly tolerate it. At this time, the pain radiated from the low back down to the buttocks on both sides and occasionally all the way down the left leg.

Presently, he is having pain in his neck and his low back and occasionally in both arms and legs. He has been on many different medications and has gotten no lasting relief.

SIGNIFICANT PAST HISTORY:
He is allergic to Penicillin.
He has no history of heart disease, hypertension or pulmonary problems.
He is married and has one child about 20 years of age.

EXAMINATION: Reveals a well developed, well nourished, muscular, Caucasian male of stated age.
HEAD AND NECK: He has pain at the base of the neck on rotation of the neck to either side and pain on extension of the neck. He has moderate muscle spasm in the posterior cervical area and in the intrascapular area. Reflexes at the biceps, triceps and bracial radialis is normal. Tactile sensation seems normal in both hands.
BACK: He has moderate muscle spasm in the back. He has pain to lateral bending on

SEE PAGE 2

MEMORIAL MISSION HOSPITAL OF W. N. C. INC.

Date 11/72 Hour a.m. p.m. Age 47 Sex Weight

Temp. 98 Pulse 88 Resp. 16 Blood Pressure 120/70

ORDER OF RECORDING
1. Include
1. General
2. Skin
3. Eyes
4. Ears
5. Nose
6. Mouth
7. Throat
8. Neck
9. Chest
10. Heart
11. Abdomen
12. Genitalia
13. Lymphatic
14. Blood Vessels
15. Locomotor
16. Extremities
17. Neurological
18. Rectal
19. Vaginal
20. Diagnosis

aw/d a/n man/47 in moderate pain.
E E N T. Eyes are clear & react normally EOM intact. Nose throat are clear. Tongue midline. Good hearing.
Neck. Tender over lower post cerv. muscles. Rotation decreased to right & left. Good carotids. No bruits. Thyroid not enlarged.
Chest. Muscles: Tender over both trapezius and upper dorsalis muscles. Clear to percussion.
Heart - Not enlarged no M. Regular rhythm.
Abdomen - flat. Hyperactive bowel sounds. Liver not enlarged. Active peristalsis. No hernias.
Genitalia - mature male - No lesions. Normal testicles.
Rectal - No masses. Back: Tenderness both sacroiliac joints.
Neuro. - No path signs. Reflexes WNL.
Coherent & cooperative.
Diag. Acute cervical Dorsal & Lumbar strain.
? Disc -

L. E. Walle
Signature

KUYKENDALL HARTMAN BANK
47Y MVIN 375558
422B2 10-31-72 L. WALLE
398138-8

Kuykendall, Hartman 4179

Dr. William F. Wilson

MEMORIAL MISSION HOSPITAL OF W. N. C. Inc.

ASHEVILLE, NORTH CAROLINA

Dictated 11/30/79.

cc: Dr. Jarrett.
cc: Dr. Waller.
cc: Dr. Weiss.
cc: Dr. Burkhardt.

ATTENDING PHYSICIAN: Dr. Waller.

This is a 47 year old Caucasian male who states he was completely well with no bone joint, muscle, or other problems until he was involved in an accident approximately 10 years ago. He was hit from behind while directing traffic and apparently landed on the concrete on his head. Subsequent to that he has had pain in the upper and lower back and in the proximal muscle groups of the pelvic and shoulder everyday. He was seen initially by Dr. Burkhardt who treated him conservatively, however, he felt he did not have the full response. Subsequent to that Dr. McKeel saw him and performed 2 myelograms both of which were reported to be normal. He was evaluated at Duke where he was told that he would learn to live with his discomfort. The pain as I noted has been present everyday and has never had any relief with the exception of some ultrasound which Dr. Waller used for the neck. This lasted only a few days. This summer he was working with tile and noted a great deal of increase in the pain in the upper and lower back area. Since then he has noted that when ever he bends forward he has to push himself up with his hands as he can not straighten up with his back. The pain is described as an ache primarily infrascapular with some discomfort into the shoulders and in the forearms. The same is present into the upper thighs and low back area which he describes as a discomfort as if he had been running and become sore. There has been no weakness. He denies all symptoms of a connective tissue disorder, a rheumatoid variant, or rheumatoid arthritis. Specifically no prior history of back pain before the initial episode and no urethritis, conjunctivitis, rashes, or fever. Medications have not been beneficial. While in the hospital he has been evaluated comprehensively with a negative myelogram, EMG, and x-rays. Laboratory studies have revealed a normal blood count, sedimentation rate, urinalysis, and SMA-12. Physical therapy and medications including Valium and Indocin have been used. Allergies: Penicillin.

PAST MEDICAL HISTORY: Completely well prior to 10 years ago.

FAMILY HISTORY: There is no history of arthritis or low back pain in the family.

PHYSICAL EXAMINATION: Reveals a well developed, well nourished man with excellent muscular development who is in no acute distress, but moves with slow deliberate movements. Temperature is 99, blood pressure 120/70, and pulse is 86 and regular.
HEENT: WNL. Temporal arteries are normal. Palpable, pulsatile, nontender.
CHEST: Clear to P&A.
HEART: No gallop, rubs, or murmurs are present, although a split first sound is present.
ABDOMEN: Without organomegaly.
SKIN: No rashes.
NAILS: No pitting.
NEUROLOGICAL: Grossly within normal limits with no loss of sensation. Muscle strength is entirely normal. Straight leg raising to 60 degrees is negative. Musculoskeletal revealed all joints to have a full range of motion without restriction. There is no tenderness over any joints, erythema, or effusions. No laxity of the joints are present. Muscles are nontender to palpation. There are several areas in the back which are tender along the thoracic and lumbosacral spine. Forward flexion of the hips to 60 degrees is normal with lumbosacral expansion. No loss of the normal lumbar lordosis. One plus tenderness over both sacroiliac joints. Vertebral expansion is normal. Lateral motion rotation normal. Two plus paraspinal spasm is present with the left being slightly worse than the right. The right shoulder has full motion with exception of loss of 15 degrees of abduction. Flexion of the neck produces pain in the back as does looking toward the ceiling. Tinel's, Phalen's, Spurling, and Adson's are all negative.

TYPE OF REPORT: CONSULTATION, SEE PAGE 2

SIGNED: M.D.

MEMORIAL MISSIO.. .IOSPITAL OF W. N. C. Inc.

ASHEVILLE, NORTH CAROLINA

Dictated 11/16/79.

the right side. The pain is located on the right in the lower lumbar area. There is no sciatic notch tenderness. Extension of the back and flexion of the back also causes pain in similar areas. Straight leg raising is positive bilaterally on the right at about 60 degrees. It is accentuated by flexion of the neck. Straight leg raising is positive on the left at about 45 degrees. It is accentuated by flexion of the neck and causes pain to go down his left arm and all the way down his left leg into his foot. Reflexes at both knees and ankles is within normal limits. He has some decrease in sensation on the lateral side of the right leg. Toe flexors and extensors are strong and equal.

DIAGNOSIS: 1. Chronic neck and back pain with almost normal physical findings other than the muscle spasm.

RECOMMENDATION: I would like to try him on an intensive program of therapy and medication for a week or so. If he does not improve, I suggest we do a repeat myelogram and do a complete myelogram all the way to the cervical area. I would seriously consider an EMG before this is done, also do it of the arms and legs.

Thanks very much for the referral of this nice patient.

Sincerely,

MOUNTAIN NEUROLOGICAL CENTER, P.A.

7 McDOWELL STREET
ASHEVILLE NORTH CAROLINA 28801
(704) 253 7776

MEDICAL NEUROLOGY
John W. Lindbergh M.D.
Cecil T. Dunnam Jr. M.D.
Brooks Lee Martin M.D.

NEUROLOGICAL SURGERY
Richard E. Wilson M.D.
Lucien A. Bonnelycke M.D.
Michael P. Sinclair M.D.

Med. file

Name KUYKENDALL, Hartman Rankin Birthdate 12-4-31 Marital Status Married

Address 46 Russell Avenue, Asheville, NC 28806 Phone 255-0398

Referred by: Dr. Waller Personal Physician: Dr. Waller

10-4-79: DR. WEISS

This 47 year old right handed white male was referred by Dr. Waller because of neck, shoulder, low back, hip, and leg pain.

HISTORY: Mr. Kuykendall was inj[illegible] ago and has been having problems with his neck and low back ever since. He was a policeman working for the Asheville Police Department at the time of the [illegible]. He was directing traffic when he was hit from behind by a vehicle. He says he was flipped up in the air and came down on top of his head. Immediately following the accident, he had severe pain in his neck and entire back. He has been having problems with neck, shoulder, low back, hip, and leg pain ever since. He was initially cared for by Dr. Burkhardt.. He was then referred to see Dr. Burleson who took over his care, evidently. He was referred to see Dr. McKeel. He had two myelograms performed. The second myelogram was performed at Mission Hospital under the direction of Dr. McKeel approximately eight years ago. Surgery was not recommended. He was referred down to Duke and he was told that he had injuries to his spine that he simply was going to have to live with. He has been cared for by a chiropractor. Over the last several years, he has been cared for by Dr. Waller who he thinks has helped him a great deal. He was out of work for approximately two years after the injury but has evidently been working full time sinc for the police department. He is now in charge of maintenance and his activity involv numerous sorts of work. He thinks that he recently aggravated the problem when he was leaning over in July laying tile. His pain is primarily in his posterior neck and left shoulder and his low back, both hips, and right thigh. He brings in outside x-rays. AP and lateral and oblique cervical spine films taken November, 1978 are of good quality and appear to be entirely normal to me. AP and lateral lumbosacral spine films taken in August of 1979 are also of good quality and appear to me to be completely normal. He is presently taking Equagesic tabs 2 q.i.d., Tandearil 100 mgm t.i.d. which he has been taking since September 25, and Tylox PRN for pain.

PHYSICAL EXAMINATION: This is a healthy appearing white male who appears his stated a Affect seems appropriate. Range of motion of his neck is normal on flexion and slightly restricted on extension and lateral bending to both sides. Foraminal compression test is negative. Passive range of motion of his shoulders reveals normal range of motion on the right but moderate amount of restriction of motion on the left. Passive range of motion of the left shoulder causes a considerable amount of discomfor in the area of his shoulder joint. He is tender to palpation over his posterior left shoulder but not over the bioccipital groove. There is no apparent tenderness on the right. Range of motion of his low back is normal though his lumbar paraspinal muscle tone seems somewhat increased. Straight leg raising can be performed to 90 degrees without discomfort. Popliteal compression test is negative. Deep tendon reflexes ar generally absent. Sensory and motor exam of the upper and lower extremities is entirely normal. Gait is normal.

MEMORIAL MISSION JSPITAL OF W. N. C. Inc.

ASHEVILLE, NORTH CAROLINA

[redacted]PRESSION: 1. Arthralgias and myalgias, etiology unclear. Certainly a HLA-B27 reactive process must be considered, as well as a connective tissue disorder or other disorders which would cause myalgias.

RECOMMENDATIONS:
1. Laboratory studies including an HLA-B27, Maine medical special studies, thyroid profile, antinuclear antibody, CPK have been ordered.
2. Bone scan is ordered to determine if there is any increased activity which would suggest a HLA-B27 reactive process.
3. Would increase the Indocin to 50 milligrams with each meal and at bed time with food.
4. Would not change other therapy at the present time until the above studies have been returned.

ADDENDUM: There is 3+ tenderness in the left supraclavicular fossa and 2+ in the right.

Thank you very much for asking me to see Mr. Kuykendall and I will followup on the studies and discuss him with you.

TYPE OF REPORT
CONSULTATION

William F. Wilson, M.D./ws/11/30/79

Castex 15

REFERRING PHYSICIAN: Waller

PATIENT CAN STAND ☐ · CANNOT STAND ☒

WHEEL CHAIR ☐ STRETCHER ☐ BEDSIDE ☒

XRAY EXAMINATION

X-ray Cervical Spine

11/4

IMPORTANT CLINICAL FACTS

Acute Neck & Upper Back pain Disc

SECTION BELOW FOR USE BY XRAY DEPARTMENT ONLY

CODE: 68

TECHNICIAN: BRD & URB

NO: 108873

DATE: 11-4-79

Cerevical Spine

WYKE HALL HARTMAN RANKIN
MMH 375552
2282 10-31-79 L. WALLER
99130-8

Memorial Mission Hospital, Asheville, N. C.

DO NOT WRITE IN THIS SPACE

CERVICAL SPINE 4 VIEWS
320200 22.75

PATIENT SHIELDED YES ✓ NO ☐ XRAY REPORT PREVIOUS X-RAYS AT MMH YES ☐ NO ☐

XRAY ROOM NO. 4

VIEW	CM	MA	KV	TIME
AP		300	75	
Lat		200	80	
Obl			75	
Obl			80	

VIEW	CM	MA	KV	TIME

VIEW	CM	MA	KV	TIME

VIEW	CM	MA	KV	TIME

108873

CERVICAL SPINE: The vertebral bodies and disc heights are normal. No soft tissue abnormalities are seen.

IMPRESSION: Negative cervical spine.

/rbm 11/5

TIMOTHY J. GALLAGHER, M. D.

PAGE TWO RE: KUYKENDALL, Hartman Rankin

10-4-79: DR. WEISS

IMPRESSION: My neurological exam of this man is unremarkable. I think that he has a chronic cervical and lumbosacral strain which is related to the accident which occurred ten years ago. He tells me that Dr. Waller has used ultrasound to treat his shoulder with good success. I recommended that he consider going back to see Dr. Waller in regards to ultrasound treatment of his neck, shoulder, and low back. I think that if the problem does not clear, he ought to see an orthopedist in regards to the mechanical problem in his left shoulder. I do not think that myelograph is indicated. (jei)

cc: Dr. Waller

NAME: K Baitz (W) — #108813

REFERRING PHYSICIAN: Jarrett

PATIENT CAN STAND ☒ CANNOT STAND ☐

WHEEL CHAIR ☐ STRETCHER ☐ BEDSIDE ☒

XRAY EXAMINATION

Complete Myelogram

11-28- 11

IMPORTANT CLINICAL FACTS

Acute Cervical & Lumbar Strain

SECTION BELOW FOR USE BY XRAY DEPARTMENT ONLY

CODE:

TECHNICIAN:

NO: 108873

DATE: 11/28/79

COMPLETE MYELOGRAM

MYELOGRAPHY - ENTIRE SPINE

341792

96.25

[illegible] HARTMAN RANKIN

[illegible] MM 375552

[illegible] 10-31-79 L. WALLER

[illegible]130-0

417A

Memorial Mission Hospital, Asheville, N. C.

DO NOT WRITE IN THIS SPACE

LUMBOSACRAL-2 VIEWS

341719 17.00

THORACIC SPINE

72020218

17.00

PATIENT SHIELDED YES___ NO___ XRAY REPORT PREVIOUS X-RAYS AT MMH YES___ NO___

XRAY ROOM NO.____

VIEW	CM	MA	KV	TIME

VIEW	CM	MA	KV	TIME

VIEW	CM	MA	KV	TIME

VIEW	CM	MA	KV	TIME

108873

CERVICAL AND LUMBAR MYELOGRAM: After successful lumbar puncture, the contrast medium was ran from the lumbar to the cervical subarachnoid area. No defects are demonstrated in the cervical area.

The contrast medium was returned to the lumbar area. There, no defects were demonstrated. After the study, most of the contrast medium was removed.

IMPRESSION: No abnormality was demonstrated by the lumbar or cervical myelogram.

THORACIC SPINE: The vertebral bodies appear intact. The joint spaces are well maintained and the alignment is good. No significant hypertrophic change is noted. No lesion is seen.

LUMBAR SPINE: The vertebral bodies appear intact. The interspaces are well maintained and the alignment is good. No significant hypertrophic change is seen. The pelvis and sacroiliac joint, as visualized, are unremarkable.

IMPRESSION: The x-ray examination of the thoracic and lumbar spine appear within normal limits.

/skl 11/28/79

N. A. THORNE M.D.

Courtesy US
Waller

ATTENDING PHYSICIAN:
PATIENT CAN STAND ☐ CANNOT STAND ☐
WHEEL CHAIR ☐ STRETCHER ☑ BEDSIDE ☐

XRAY EXAMINATION
X Ray Cervical Spine
11/4

IMPORTANT CLINICAL FACTS
Acute Neck & Upper Back Pain, Disc

FOR USE BY X-RAY DEPARTMENT ONLY

CODE: 608
TECHNICIAN: BVR + MMB
NO: 108873
DATE: 11-4-79

Cerevical Spine

[redacted] BYKENDALL HARTMAN RANKIN
[redacted] MMH 375552
[redacted] 2B2 10-31-79 L. WALLER
[redacted] 00130-8

Memorial Mission Hospital, Asheville, N. C.
DO NOT WRITE IN THIS SPACE
CERVICAL SPINE 4 VIEWS
320200 22.75

PATIENT SHIELDED YES ✓ NO ___ XRAY REPORT PREVIOUS X-RAYS AT MMH YES ___ NO ___

XRAY ROOM NO. 4

VIEW	CM	MA	KV	TIME
[redacted]		300	75	
[redacted]		200	72	
[redacted]			8	#
[redacted]			76	#

VIEW	CM	MA	KV	TIME

VIEW	CM	MA	KV	TIME

VIEW	CM	MA	KV	TIME

108873

CERVICAL SPINE: The vertebral bodies and disc heights are normal. No soft tissue abnormaliti are seen.

IMPRESSION: Negative cervical spine.

TJG/rbm 11/5

TIMOTHY J. GALLAGHER, M. D.

MEMORIAL MISSION HOSPITAL

ASHEVILLE, NORTH CAROLINA

COLLECTED DATE 11-30-79 TIME 2:55 PM

LAB NO

☐	GLUCOSE FASTING 65 105 mg/dl	
☐	GLUCOSE NON-FAST VARIES	
☐	BUN 6 18 mg/dl	
☐	CREATININE 1 2 mg/dl	
☐	URIC ACID 2 5 8 0 mg/dl	
☐	SODIUM 135 152 mEq/L	
☐	POTASSIUM 3 5 5 6 mEq/L	
☐	CHLORIDE 99 108 mEq/L	
☐	CO_2 24 32 mEq/L	
☐	pH 7 32 7 45	
☐	OSMOLALITY 280-300 mOsm/kg	
☐	TOTAL PROTEIN 6 8 3 gm/dl	
☐	ALBUMIN 2 5 5 gm/dl	
☐	CALCIUM 8 6 10 8 mg/dl	
☐	PHOSPHORUS 2 5 4 5 mg/dl	
☐	BILIRUBIN TOTAL 0 1 5 mg/dl	
☐	BILIRUBIN DIRECT 0 0 3 mg/dl	
☐	BILIRUBIN INDIRECT	
☐	SGOT 11 39 IU/L	
☐	LDH 60 165 IU/L	
26 ☒	CPK [illegible] IU/L 8-75	
☐	ALKALINE PHOS 20 91 IU/L	
☐	GGTP F 0 20 IU M 0 64 IU	
☐	SGPT 4 36 IU/L	
☐	ACID PHOS 0 2 0 K.A.	
☐	AMYLASE 15 200 U	
☐	LIPASE 0 2 0 U	
☐	MAGNESIUM 1 5 1 9 mg/dl	
☐	SALICYLATE TOXIC ABOVE 30 mg/dl	

ENZYME GROUP

CODE

$

DATE & TIME DONE 12/1/79 AM PM

TECH(S) [illegible]

SERUM CHEMISTRY

091217

MEMORIAL MISSION HOSPITAL • ASHEVILLE, N.C. 28801

RECEIVED BY [illegible]

DATE & TIME ROOM 11/30

CONDITION

DATE CONDITIONED 11/30

ROUTINE ☐ STAT ☐ 24 HR ☐ LIMITS ROOM ☐ OTHER ☐

ORDERING PHYSICIAN [illegible]

WARD

AM PM

[illegible]

[illegible]

[illegible]

REMOVE THIS TAB FOR 2ND REPORT

REMOVE THIS TAB FOR 3RD REPORT

REMOVE THIS TAB FOR 4TH REPORT

REMOVE THIS TAB FOR 5TH REPORT

CHART COPY

THE STANDARD REGISTER COMPANY, U.S.A.

1008 73 249

Carter, W.

W. Wilson

SECTION BELOW FOR USE BY XRAY DEPARTMENT ONLY

CODE:

TECHNICIAN:

NO: 108873

DATE: XXXXXXX 12/1/79

[redacted] BONE SCAN

Dose: 4.9 cc's of 99mTc
Osteolite equals to
14.838 mCi.

[redacted] DALL HARTMAN RANKIN
[redacted] 7Y BRM 475542
[redacted] 17A2 10/31/79 L WALLER
[redacted] 00130-8

Memorial Mission Hospital, Asheville, N. C.

DO NOT WRITE IN THIS SPACE

BONE SCAN
300137
89.50

[redacted] AN STAND ☐ CANNOT STAND ☒

[redacted] CHAIR ☐ STRETCHER ☒ BEDSIDE ☐

XRAY EXAMINATION

Bone Scan

12/1 2PM

IMPORTANT CLINICAL FACTS

Any ↑ uptake

Lt. Hip pain
Rt. neck pain - trauma
[redacted] 10 yrs ago

PATIENT SHIELDED YES ☒ NO ☐

XRAY REPORT

PREVIOUS X-RAYS AT MMH YES ☐ NO ☐

XRAY ROOM NO. _____

VIEW	CM	MA	KV	TIME

VIEW	CM	MA	KV	TIME

VIEW	CM	MA	KV	TIME

VIEW	CM	MA	KV	TIME

108873

BONE SCAN: A posterior and anterior projection was obtained with the radionucleide 99mTc. There is a normal distribution of the radionucleide without evidence of abnormal increased activity. There is a normal uptake within the renal parenchyma and within the bladder.

IMPRESSION: Normal bone scan.

/dkh 12/2/79

TIMOTHY J. CALLAGHER, M. D.

252

MEMORIAL MISSION HOSPITAL

ASHEVILLE, NORTH CAROLINA

COLLECTED DATE 11/1 TIME 6 45 AM PM

☐ DIFF 200063 3 ☐ WBC 200048 0 ☐ HCT 200030 4 ☐ HGB 200022 ☐ CBC 200014 X

			TEST COULTER NORMALS
4	3	3	
0	7 .	5	WBCx10³ M-4.8-10.8
5 .	2	3	RBCx10⁶ M-4.7-6.1 F-4.2-5.4
1	5 .	8	HGB gm% M-14-18 F-12-16
4	5 .	3	HCT % M-42-52 F-37-47
0	8	6 .	MCV µ³ M-80-94 F-81-99
2	9 .	9	MCH µµg N-27-31
3	4 .	8	MCHC % N-32-36

POLYS (SEGMENTED NEUTROPHILS) %	42.0	NORMAL RBC
BAND NEUTROPHILS %	1.0	ANISO CYTOSIS
LYMPHOCYTES %	46.0	POIKILO-CYTOSIS
MONOCYTES %	7.0	MICRO CYTOSIS
EOSINOPHILS %	3.0	MACRO CYTOSIS
BASOPHILS %		POLY-CHROMASIA
ATYPICAL LYMPHOCYTES %	1.0	HYPO-CHROMASIA
PLASMA CELLS %		SPHERO-CYTOSIS
[illegible] %		TARGET-CELLS
MYELOCYTES %		BASOPHILIC STIPPLING
[illegible] %		TOXIC GRANULATION
BLASTS %		HYPER SEG POLYS
NUCLEATED RBC #/100 WBC		
DIFFERENTIAL SAMPLE X10 10	20	PLATELET ESTIMATE

SL = SLIGHTLY LO = DECREASED
MO = MODERATE NL = NORMAL
MK = MARKEDLY HI = INCREASED

COMMENTS

DATE & TIME DONE 11/1 110 AM PM TECH

ROUTINE HEMATOLOGY - CBC

COLLECTED DATE 11/1 TIME 1 AM PM

☐ DIFF 200063 ☐ WBC 200048 ☐ HCT 200030 ☐ HGB 200022 ☑ CBC 200014

			TEST COULTER NORMALS
3	3	3	
0	7 .	5	WBCx10³ M-4.8-10.8
4 .	1	3	RBCx10⁶ M-4.7-6.1 F-4.2-5.4
1	5 .	7	HGB gm% M-14-18 F-12-16
4	5 .	4	HCT % M-42-52 F-37-47
0	8	7 .	MCV µ³ M-80-94 F-81-99
2	9 .	4	MCH µµg N-27-31
3	4 .	1	MCHC % N-32-36

POLYS (SEGMENTED NEUTROPHILS) %	58	NORMAL RBC
BAND NEUTROPHILS %	[illegible]	ANISO CYTOSIS
LYMPHOCYTES %	[illegible]	POIKILO-CYTOSIS
MONOCYTES %	[illegible]	MICRO CYTOSIS
EOSINOPHILS %	1	MACRO CYTOSIS
BASOPHILS %	1	POLY-CHROMASIA
ATYPICAL LYMPHOCYTES %	1	HYPO-CHROMASIA
PLASMA CELLS %	0	SCHISTO CYTES
[illegible] %	1	TARGET CELLS
MYELOCYTES %	[illegible]	BASOPHILIC STIPPLING
[illegible] %	0	TOXIC GRANULATION
BLASTS %	0	ROULEAUX
NUCLEATED RBC #/100 WBC	0	
DIFFERENTIAL SAMPLE X10 #	[illegible]	PLATELET ESTIMATE

SL = SLIGHTLY LO = DECREASED
MO = MODERATE NL = NORMAL
MK = MARKEDLY HI = INCREASED

COMMENTS

DATE & TIME DONE 11/1 AM PM TECH

ROUTINE HEMATOLOGY - CBC

CHART COPY

[illegible] BALL HARTMAN RANKIN
47Y WHM 375552
#2252 10-31-79 L. WALLER
981138-0

7 50 PH '79 083035

PH '79 113193

MEMORIAL MISSION HOSPITAL • ASHEVILLE, N.C. 28801

REQUISITIONED BY [illegible] DATE REQUISITIONED 11/1 CERNING PHYSICIAN [illegible]

CLINICAL INFO. Acute Leukemia

DATE TO BE DONE 11/1 ROUTINE ☐ STAT ☐ PRE OP ☐ EMERG. ROOM ☐ OTHER ☐

LAB NO. 08

MD

REMOVE THESE TABS FOR 3RD REPORT

3

ROUTINE HEMATOLOGY

94

EMORIAL MISSION HOSPITAL

ASHEVILLE, NORTH CAROLINA

3

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2

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MEMORIAL MISSION HOSPITAL • ASHEVILLE, N.C. 28801

REQUISITIONED BY: Dr Lo

DATE REQUISITIONED: 11/30

ORDERING PHYSICIAN: W Moon M.D.

DATE TO BE DONE: 11/30

ROUTINE ☐ STAT ☐ PRE OP ☐ EMERG BEFORE ☐ OTHER ☐ A.M. P.M.

SPECIAL INSTRUCTIONS:

COLLECTED DATE & TIME: 11-30-79 2:55 ⓐ

UNIT: 3kPa

CLINICAL INFO.:

* SEPARATE REPORT

[illegible] HARTMAN RANKIN
[illegible] 375[illegible]
[illegible]17A2 10/31/[illegible] L WALLER
[illegible]

Nov 30 2 [illegible] 005628

PROTEIN ELECTROPHORESIS ☐ * 220269	CARDIAC PROFILE ☐ * 250258	BLOOD ALCOHOL ☐		0-200 1100 ☐	
1 PROTEIN 6-8 gm/dl	LDH ISOENZ ☐	AMMONIA 18-38 mcg/dl ☐		FOLATE SERUM 2.00-11.00 ng/ml ☐	
ALBUMIN 3.21-5.36 gm/dl	CPK ISOENZ ☐	DIGOXIN 0.2 ng/ml ☐		LIPID PROFILE PATTERN ☐ * 190363	
1 GLOB 2.39-2.64 gm/dl	AM / MB / BB	T. CHOLESTEROL 125-35 ☐ 29.7 %		TRIGLYCERIDES 10-165 mg/dl ☐	
ALPHA2 0.12-0.37 gm/dl	LD ISOENZ RATIO ☐ * 250308	T. BILIRUBIN 4.5-11 ☐ 6.2 mg/dl		OTHER FTI 1.8 ☐	
ALPHA2 0.33-1.10 gm/dl	BRAIN SCAN ☐ * 220186	SMA/CHEM PROFILE ☐ * 190330		NORMAL 1.1-3.9	
BETA 0.46-1.18 gm/dl	CREATINE KINASE ☐	ESTROL DEPENDS ON GESTA mg/dl ☐		CODE	
GAMMA 0.[illegible] gm/dl	COMMENTS	[illegible] ☐		TECH ANF	DATE 12/3/79 TIME 16

SPECIAL CHEMISTRY CHART COPY

CIAL CHEM
NE CHEM
MISC.

254

MEMORIAL MISSION HOSPITAL — ASHEVILLE, NORTH CAROLINA

3

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CHART COPY

KUYKENDALL HARTMAN RANKIN
47Y WM 375552
017A2 10/31/79 L WALLER
390130-B

006961

REQUISITIONED BY	Gray
DATE REQUISITIONED	11-28
ORDERING PHYSICIAN	Garrett MD
DATE TO BE DONE	ROUTINE ☒ STAT ☐ PRE OP ☐ EMERG ROOM ☐ OTHER ☐ AM PM
CLINICAL INFO	Myelogram
CYTOLOGY (CELL BLOCK, MORPHOLOGY, ANTIGEN)	
COLLECTED DATE:	1200 MK
CELL COUNT & DIFF	☒
RBC ONLY	☐ 3 /mm³
CRENATED	fresh %
WBC ONLY	☐ 1 0 /mm³
TOTAL CELLS COUNTED ON DIFF.	
SEG %	LYMPH %
MONO %	%

SOURCE: ☒ SPINAL FLUID ☐ PERITONEAL ☐ PLEURAL ☐ THORACENTESIS ☐ PERICARDIAL

COLOR	colorless
APPEARANCE	clear
SP GRAV	☐
TUBE 2	DATE 11-28-79 TIME 1200 AM PM

SEMEN ANALYSIS ☐ POST VASECTOMY ☐ 6 00 AM '79 71

VDRL	☐	COLL GOLD	☐
PROTEIN (15-45)	☒ 3.3 mg/dl	GLUCOSE (40-70)	☒ 60 mg/dl
ELECTRO PHORESIS	☐	CHLORIDE (125-135)	☐ mEq/L
CODE	3 $	TUBE	DATE & TIME DONE AM PM TECH

BODY FLUIDS

THE STANDARD REGISTER COMPANY

SPECIAL HEMATOLOGY BODY FLUIDS (SPINAL FLUID)

MEMORIAL MISSION HOSPITAL

ASHEVILLE, NORTH CAROLINA

3

REMOVE THESE TABS FOR 3RD REPORT

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REMOVE THESE TABS FOR 2ND REPORT

MEMORIAL MISSION HOSPITAL • ASHEVILLE, N.C. 28801

ORDERED BY: Autry MD | DATE REQUESTIONED: 11-24 | ORDERING PHYSICIAN: Autry

DATE TO BE DONE: 11/24 | ROUTINE ☐ STAT ☐ PRE-OP ☐ EMERG ROOM ☐ OTHER ☐

CLINICAL INFO: Acute Cervical Lumbosacral Strain

COLLECTED: DATE 11-24 TIME 1200 AM PM

PLATELET COUNT ____ mm³

PLATELETS APPEAR ON SLIDE

SED RATE (WINTROBE): M=0-9 mm/hr F=0-20 mm/hr CORRECTED ____ mm/hr

SED. RATE (WESTERGREN): M=0-15 mm/60 min F=0-20 mm/60 min 2 mm/30 min 13 mm/60 min

HEMATOCRIT

SICKLE CELL SCREEN ☐

L.E. PREP. ☐

OTHER: ☐

RETICULOCYTE COUNT ____ %

LEUKOCYTE ALK. PHOS STAIN ☐

EOSINOPHIL COUNT ____ mm³

G-6PD ☐ CONTROL ____ PATIENT ____

OSMOTIC FRAGILITY ☐

HEMOLYSIS % NaCl

	CONTROL		PATIENT	
	IMMEDIATE	INCUBATED	IMMEDIATE	INCUBATED
INITIAL				
COMPLETE	45			

11-24 1250 DATE & TIME DONE TECH

SPECIAL HEMATOLOGY

CHART COPY

CUYKENDALL HARTMAN RANKIN MD
MWH 375552
2B2 10-31-79 L. WALLER 68
3130-8

021232

NOV 24 1 42 PM '79

SPECIAL HEMATOLOGY BODY FLUIDS

256

MEMORIAL MISSION HOSPITAL — **ASHEVILLE, NORTH CAROLINA**

MEMORIAL MISSION HOSPITAL • ASHEVILLE, N.C. 28801

REQUISITIONED BY: Dolo | DATE REQUISITIONED: 11/28 | ORDERING PHYSICIAN: Waller

DATE TO BE DONE: 11/30 | ROUTINE | STAT | PRE OP | EMERG. ROOM | Other

CLINICAL DATA

SPECIMEN TAKEN: 11-30-79 TIME: 2:55 BY: KA

RPR	REACTIVE	NON-REACTIVE
PREGNANCY TEST	POSITIVE	NEGATIVE
MONOSPOT	POSITIVE	NEGATIVE
ASO TITER	UNITS	
STREPTOZYME	TITER	
DNASE-B	TITER	
RA TEST		
OTHER		

REMARKS

LEGEND: ACUTE / CONVALESCENT — 280024

TYPHOID H	dil
TYPHOID O	dil
PARATYPHOID A	dil
PARATYPHOID B	dil
BRUCELLA ABORTUS	dil
PROTEUS OX-19	dil

[illegible] HARTMAN RANKIN
[illegible] 37,[illegible]
[illegible]742 10/31/[illegible] L. WALLER
[illegible]3153-8

U10989

280206 — 25 yr 11 mo 29 DAYS AGE

IgG (RESULT)	(NORMAL)	mg/dl
IgM (RESULT)	(NORMAL)	mg/dl
IgA (RESULT)	(NORMAL)	mg/dl
COMPLEMENT C 3 (RESULT)	(NORMAL)	mg/dl
WEIL FELIX 190074		
OX 2		dil
OX K		dil
OX 19		dil

AFIA 4	TITER
[illegible]	dil
HCG TITER	dil
TITERS	
[illegible]	TCH

SEROLOGY I — CHART COPY

CLINICAL LABORATORIES

MEMORIAL MISSION HOSPITAL — ASHEVILLE, N. C. 28801

KUYKENDALL, HARTMAN — ROOM# 417 — M/47 — MMH *0836468* 1A21
HOSP # 375552 — COLL: 12/1/79 AM — REC 12/4/79
DR. WALLER — SPEC: SERUM — REP 12/5/79 6AM

Test	Result	Normal Range
Glucose		mg/dl 65-120
B.U.N.		mg/dl 9-25
Creatinine		mg/dl 0.5-1.4
Calcium		mg/dl 8.5-10.8
Phosphorus		mg/dl 2.3-4.5
Uric Acid		3.3-9.0M 2.4-7.0F mg/dl
Sodium		mEq/l 137-148
Potassium		mEq/l 3.4-5.1
CO_2		mEq/l 22-32
Chloride		mEq/l 95-110
CPK		mU/ml 10-125
SGOT		mU/ml 10-40
LDH		mU/ml 90-225
Alk. Phos.		mU/ml 20-95
SGPT		mU/ml 5-30
Tot Bilirubin		mg/dl 0.1-1.3
Tot Protein		g/dl 6.0-8.3
Albumin		g/dl 3.5-5.2
Triglyceride		mg/dl 10-150
Cholesterol		mg/dl 150-300
ANTI-NUCLEAR ANTIBODIES (ANA)	NEGATIVE	NEGATIVE - <1:20 NON DIAGNOSTIC

12/76 — PATIENT

PSPA — ASSAYS BY PSPA, INC., ATLANTA, GEORGIA
REFERENCE LAB NO. CAP 61047 MEDICARE 011-8022
MEDICAL DIRECTOR JOHN F. NICHERSON, M.D.

SEROLOGY I
SEROLOGY II

EMORIAL MISSION HOSPITAL — ASHEVILLE, NORTH CAROLINA

[redacted]

3

REMOVE THESE TABS FOR 3RD REPORT

[redacted]

2

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MEMORIAL MISSION HOSPITAL • ASHEVILLE, N.C. 28801

REQUESTIONED BY: Williams | DATE REQUESTIONED: 10/31/79 | ORDERING PHYSICIAN: Z.L. Miller MD

DATE TO BE DONE: 10/31/79 | ROUTINE ☑ | STAT ☐ | PM-OP ☐ | EMERG ROOM ☐ | OTHER ☐ | AM ☐ PM ☐

CLINICAL INFO

☐ VOID ☐ CATH ☐ CLEAN CATCH

KUYKENDALL HARTMAN RANKIN
47Y MWM 375552
422A2, 10-31-79 L. WALLER
398138-8

75

COLLECTED DATE	TIME	AM PM	INIT	MICROSCOPIC ☐ 260083
ROUTINE (INCLUDES MICROSCOPIC) ☑ 260018				RBC /hpf
COLOR	yellow			WBC /hpf
CHARACTER	cloudy			EPITH. SQU /hpf
SP. GRAVITY ☐	1.014			EPITHELIAL, RENAL /hpf
pH ☐	7.0			AMORPHOUS /hpf phosphate
ALBUMIN ☐	NEG			CRYSTALS /hpf
GLUCOSE ☐				CASTS, HYALINE /hpf
KETONES ☐				CASTS /hpf
BILIRUBIN ☐				MUCUS /hpf
HGB ☐				BACTERIA 1+ /hpf
OCC. BLD ☐				OTHER /hpf

Oct 31 9 51 AM '79 084231

SPECIAL TESTS

UROBILINOGEN	☐
PORPHOBILINOGEN	☐
CALCIUM (SULKOWICH)	☐
MYOGLOBIN	☐
DIAGNEX BLUE	☐
OTHER	☐

URINALYSIS

CODE 1 1 | DATE & TIME DONE 10/31 11:50 AM PM | TECH

URINALYSIS

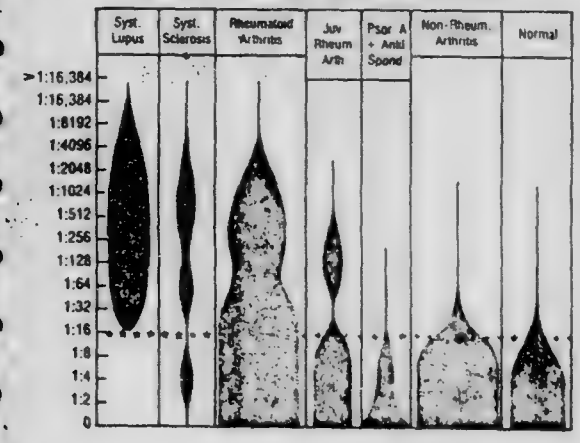
12/7--

Name: KUYKENDALL, MARTHA
Diagnosis: R.A.
Draw Date: 11-30
Hosp. ID: 375552
Age: 47 YEARS Sex: FALF

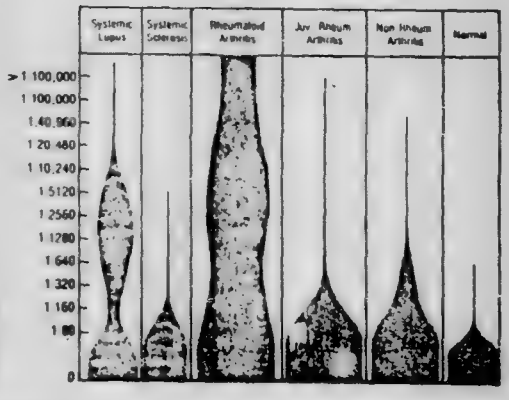
Requested By: MEMORIAL MISSION HOSPITAL

Specimen No: 12/05/053
Report Date: DEC 07, 1979

ANTINUCLEAR ANTIBODY TITER



RHEUMATOID FACTOR TITER



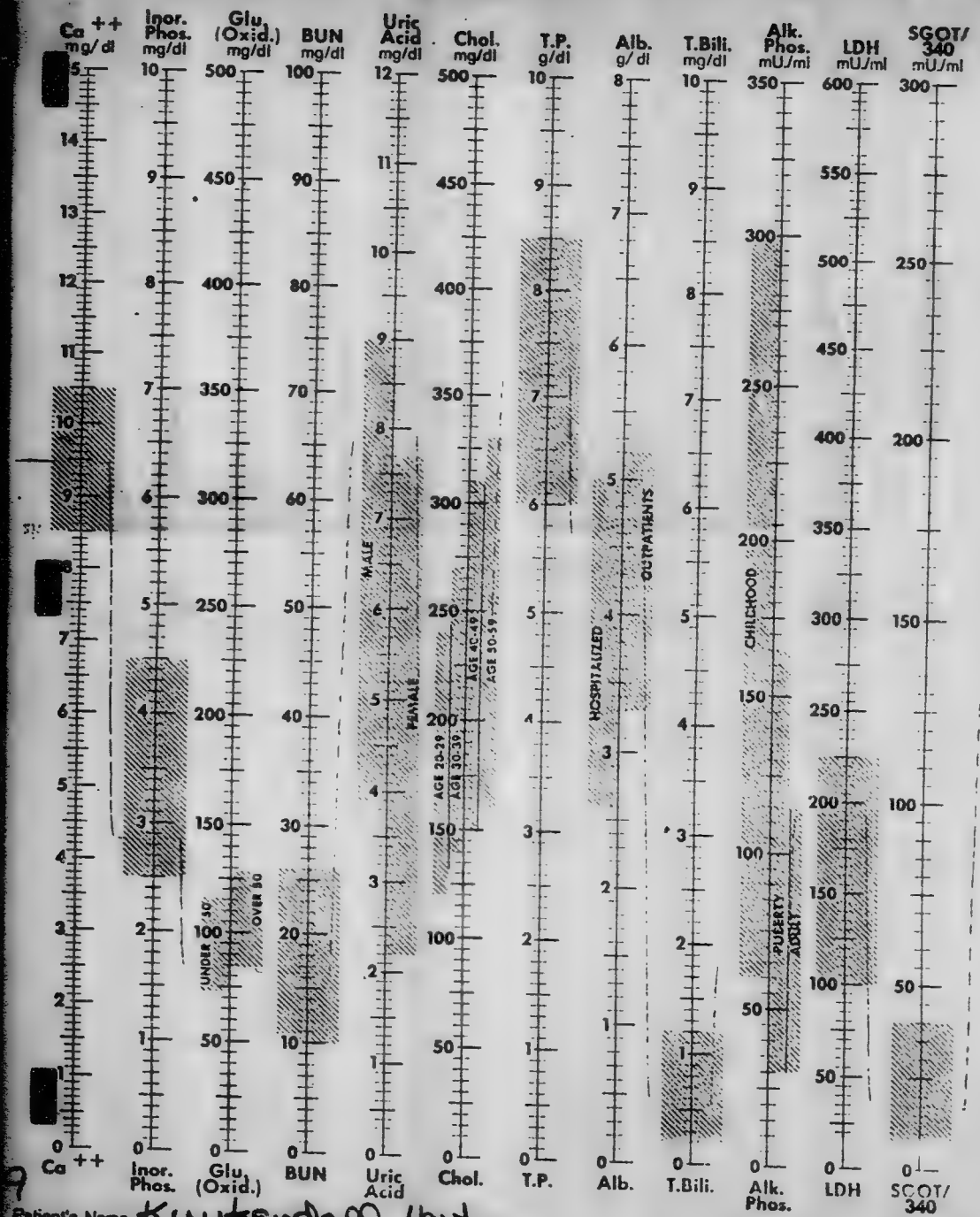
CURRENT RESULTS

ANA	C3 (MG/DL)	C4	RF
1:16 HOMOGENEOUS NORMAL	186	28.1	<< 1:160 NORMAL
ANTI-MITOCHONDRIAL: NEGATIVE	(SEE IMMUNOASSAY REPORT #3A6.28)		
ANTI-DS-DNA: NEGATIVE			

PREVIOUS RESULTS

ANA	DATE/LOCATION	C3 (MG/DL)	C4	RF

FOUNDATION FOR BLOOD RESEARCH
P.O. BOX 428 (49 U.S. ROUTE 1)
SCARBOROUGH, ME. 04074
TELEPHONE 207 883-4282



Patient's Name Kuytendall, Hartman

MEMORIAL MISSION HOSPITAL • ASHEVILLE, N.C. 28801

ORDERED BY	DATE REQUISITIONED	OPERATING PHYSICIAN
DCW	11/30	[illegible] M.D.

DATE TO BE DONE	ROUTINE	STAT	PRE OP	THREE ROOM	OTHER	
11/30	☐	☐	☐	☐	☐	AM / PM

CLINICAL INFO

[illegible] HARTMAN RANKIN
27Y WMA 775592
17A2 10/31/79 L WALLER
198130-0

000089

THE FOLLOWING TEST PROCEDURES ARE SENT OUTSIDE OUR HOSPITAL FOR SEROLOGIC TESTING. HENCE RESULTS WILL BE DELAYED. A COMPLETE REPORT OF THE FINDING WILL BE PLACED ON THE CHART WHEN RECEIVED BY OUR LABORATORY

COLLECTED DATE 11-30-79 TIME 2:30 SKA

NOV 30 2 52 PM '79

TOXOPLASMOSIS	☐ 280107	HAPTOGLOBIN	☐ 190058
RUBELLA HI	☐ 220202	HLA B27 TYPING	☐
LEPTOSPIROSIS	☐ 220202	HBSAg (HAA)	☐ 346262
FTA-ABS	☐ 220202	CONFIRMATION CURVE SPEC	☐ 220202
MARINE MED PROFILE	☒ 190397	CLARIFICATION OF SPEC	☐ 220202
COLLOIDAL GOLD	☐ 250076	TORCH TITER	☐ 220202
C-REACTIVE PROTEIN	☐ 220152	VIRAL STUDIES (PLEASE SPECIFY) →	☐ 220202
		CF FOR HUMAN (PLEASE SPECIFY) →	☐ 220202

OTHER

CODE | DATE & TIME DONE | INIT

SEROLOGY II — CHART COPY

Name: KUYKENDALL,MARTHAA
Hosp. ID: 375552
Age: 47 YEARS Sex: MALE

Requested By: [illegible]
ORAL DATE: 11-30
Patient No.: 389.28 Date: 05-DEC-79

Protein	mg/dl	Low	Normal	High
ALBUMIN	428			
A1-ANTITRYPSIN	21			
HAPTOGLOBIN	17			
OROSOMUCOID (A1AGP)	82			
A2-MACROGLOBULIN	17			
TRANSFERRIN	27			
COMPLEMENT C3	18			
COMPLEMENT C4	5			
IMMUNOGLOBULIN G	6H			
IMMUNOGLOBULIN A	29			
IMMUNOGLOBULIN M	24			28X
LDL PROTEIN	23			
TOTAL IMMUNOASSAY(G/DL)	6.9			
EVALUATIVE PROTEIN	10.1			
ANTINUCLEAR ANTIBODY			16 H	
RHEUMATOID FACTOR			<16P	

(BL=145)

-THIS STUDY IS ABNORMAL FOR A PERSON OF THIS AGE AND SEX.

OF NOTE: Chylous

-SIGNIFICANT HYPOIMMUNOGLOBULINEMIA INVOLVING IGG. MAJOR DIFFICULTIES WITH POOR SYSTEMIC RESISTANCE TO INFECTION ARE NOT ANTICIPATED. SUGGEST RESTUDY IN 3 MONTHS. THERE IS IN ADDITION SIGNIFICANT DIFFUSE HYPERIMMUNOGLOBULINEMIA INVOLVING IGM THAT MAY REFLECT AN ACUTE IMMUNE PROCESS.

-MARKED HYPERLIPOPROTEINEMIA. IF THE PATIENT HAS FASTED PROPERLY THE DATA SUGGESTS PANCREATITIS, SEPSIS, ALCOHOLISM, ETC. SERIAL LIPID STUDIES WOULD BE OF VALUE DURING THERAPY.

R

Additional studies in progress ( )

FOUNDATION FOR BLOOD RESEARCH
P.O. BOX 426 (U.S. ROUTE 1)
SCARBOROUGH, ME. 04074
TELEPHONE 207-883-4362

MEMORIAL MISSION HOSPITAL OF W. N. C., INC.

DATE	PHYSICAL THERAPY
11-17-79 1 PM	Initial eval. 44yo WF ? former policeman, adm'd 10-31-79 c acute neck & upper back pain. Pain originally from MVA 10 yrs ago. Recurred Nov 1978 when lifting a box. Has had P.T. on several occassions c full relief at times — last patient therapy for past year c 75% relief but no significant response in past month. Dr Jarrett rx: "PT for ICT and IPT qd; massage, medicomisletion, HC packs neck & mid & upper back."
	S: Neck pain, back pain & HA since MVA 10 yrs ago. Neck pain is ~~constant~~ greater on (R) than (L) radiating to head c occassional numbness. The back pain is central low back & radiation, but ~~is~~ more severe posteriorly.
	O: Moves somewhat stiffly, but walks c difficulty. Neck rotation is 50% to (R) c pain; neck extension is particularly painful; daily extension is painful c assisted movements. Rx: ICT c HP (15" x 15 mins) @ 110 to back. (R) modes to traps & back. ~~HP~~ reported 1 soreness p Rx.
	A: Recurrent neck & back pain. Doubt L pain understand back.
	P: Cont treatment, add pelvic tx & massage. Thank you. Dr Jarrett
11-18-79 1 PM	S: Reports a general "whirling" in his shoulder & upper back muscles that he related to the IV yesterday and reports is worse since yesterday's P.T.
	(next page)

Kenneth Hall PT

Dr Jarrett

M M H FORM 56 PHYSICAL THERAPY RECORD

CONSENT TO SPECIAL DIAGNOSTIC PROCEDURE

Date Nov 29, 1979 Time 7 30 (A.M. / P.M.)

I authorize Dr. Thorne, and such assistants as he may designate, to perform upon myself (myself or name of patient) the following diagnostic procedure: pan myelogram

The nature of this procedure, possible alternative methods of diagnosis and the risks of injury despite precautions have been explained to me.

Signed [illegible] (Patient or person authorized to consent for patient)

Witness Cheryl D Fisher, R.T.

MEMORIAL MISSION HOSPITAL OF W. N. C., INC.

DATE	PHYSICAL THERAPY
1-21-79 7:30AM	S- I have a headache today
	O- Medco to cervical & upper trap area x 6 min, HP [illegible] @ 55# x 20 min
	P- Will follow. K Knauth LPT
1-21-79 1:30PM	O- Medco to cervical, HP & ICT @ 55# for 15 min
	P- Will follow. K Knauth LPT
1-23-79 8:00AM	O- Medco to L [illegible] x 6 min to cervical/upper trap region, HP & ICT @ 55# x 20 min, HP & ICT @ 35# thereon
	A- No significant change
	P- Will follow. K Knauth LPT
1/24/79	P.T. I
	Subj: clin still c/o pain
	obj. ICTx 60# HP x 20 min, Medco Cervical & US (1.25 w/cm²) x 6 min
	Assess: Pt. Rx. well, Pt will f/u PRN c/o pain (L)
	Plan Cont. R Mealy LPT
1/25/79 9:40	P.T. I
	Subj: clin really same as before
	obj. ICTx 30# HP x 20 min & moist heat cervical, LB; Medco Cervical & US 1.0 w/cm² x 12 min each LB
	Assess: Pt. Rx. well, finish Rx after Rx.
	Plan Cont. R Mealy LPT

K. Knauth LPT

MMH FORM 66 PHYSICAL THERAPY RECORD

[redacted]ORIAL MISSION HOSPITAL OF W. N. C., INC.

DATE | PHYSICAL THERAPY

1-18-79 1:30 PM (cont) D: C/Tx reduced to 12# (from 15") c intervals of 20" on/off
S: Still back & neck massage followed.
A: Better after massage.
P: Recon TID (removed). Discharge WT

1-19-79 10:00 AM
O: Cervical motion still limited in / + ® rotation. Pain in LB to hips symmetrical. Rx: medcoloton, HP to LB, 5 PTx @ 40 lbs.
P: Cont BID c ICTx this PM. C Robbins LPT

1-22-79 2:00 PM
S: C/o intermittent numbness ® hand. ~~Hx not~~
O: Continue Rx c HP + medcoloton + TCTx @ 40 lbs x 20 min.
A: Tenderness elicited 1st and 2nd ribs lateral. No numbness ® hand p tx.
P: Continue. C Robbins LPT

1-20-79 10:15 AM
O: Cont Rx above c IPTx @ 50 lbs.
A: no change
P: Cont C Robbins, LPT

1-24-79 2:10 PM
O: Cont Rx above c ICTx @ 35 lbs; note improved ® rotation c apparent symmetrical limitation rotation (c 33%), V -> posterior "stretch" sensation, symmetrical limitation @ 25%.
A: ↑ ® rotation.
P: Continue C Robbins LPT

Kingsdell #22
Dr Sprell

PHYSICAL THERAPY RECORD

MEMORIAL MISSION HOSPITAL OF W. N. C., INC.

DATE	PHYSICAL THERAPY
11-30-79 2:30 PM	S: "My [illegible]..."
	O: Medco to [illegible] followed by
	ICT @ 35# x 20 [illegible]
	P: Will follow. Strong LPT
12-1-79 10:00 AM	S: "My [illegible] LB's leg pain
	O: Medco to [illegible] ICT @ 35#
	A: ↑ in subjective complaints
	P: Will follow Strong LPT
12-2-79 9:15 AM	S: "Feel tensile - across, legs, neck, back
	O: Will [illegible] Medco to L/S followed by HP [illegible]
	P Will follow Strong LPT
12-3-79 9 AM	S: Stiff acc over ego standing
	O: IPT x @ [illegible] 70# c HP. L/S is present chief spas => massage ↑ lower ↓ upper trunk
	A: M has been responding to Medco x 3 wks
	P: Cont traction ↓ low back ↑ massage x 2 days ↑ Goodrich LPT
12-3-79 2:15 PM	O - ICT @ 35# x 15 min followed by [illegible] upper trap [illegible]
	A: Significant [illegible]
	P: Will follow Strong LPT

Kuyk - Jack PT

Dr Hall

PHYSICAL THERAPY RECORD

EMORIAL MISSION HOSPITAL OF W. N. C., INC.

PHYSICAL THERAPY

6-79 10AM S: "to headache"

O: Medico @ 1.25 watts/cm² x 6min to cervical, upper trap area & x 6min to LB area. IPT @ 60# x 20 min

P: Will follow. SKeech LPT

6-79 2:00PM O - Rx as above

A: No significant Δ

P: Will follow. SKeech LPT

-27-79 1PM a) see Rx this AM - sent from PT to CMG.

27-79 2PM P) Continue Rx this PM. CRobbins LPTA

S: "to LB pain"

O Medico to cervical/upper trap area @ 1.25 watts/cm² x 6 min also Medico to LB x 6 min, followed by ICT @ 55# x 15 min.

A- Will attempt to advance to medico [illegible] GI for cervical & LB instead of PMS to both.

P. Will follow. SKeech LPT

29-79 10AM S- "I feel lousy [illegible]

O- Cervical previous Rx the pain just unbearable & LBP which were both @. Medico as above to cervical musculature followed by HP & ICT @ 35# x 15 min.

A- No significant Δ

P. Will follow SKeech LPT

-30-79 10:15 AM S) "I feel worse now - than when I first came in."

O) Continue ICT & medico as above. Pt in spasm mt.

A) Pain @ end of range all control movements.

P) Continue. CRobbins LPTA Kuykendall

M H H FORM 66 PHYSICAL THERAPY RECORD

MEMORIAL MISSION HOSPITAL OF W. N. C., INC.

DATE	PHYSICAL THERAPY
2-5-79 9:30 AM	S- c/o ⓔ neck pain, 2° hemorrhoids O- Diathermy x 15 min to cervical spine ⓒ #2 followed by ICT ⓒ 35# x 15 min & HP to neck ⓒ same time A- Diathermy causes a Therapeutic ↑ & pt is apparently uncomfortable will go back to US. P- Will follow. Shirley LPT
2-5-79 1:45 PM	S- c/o ↑ neck pain (intermittent) O- US @ 1.5 watts/cm² to cervical region/upper traps/rhomboids followed by ICT @ 35# x 15 min & HP to neck @ same time. A- Cervical ROM unlimited & pain @ range extremes. P- Will follow Shirley LPT
2-6-79 9:00 AM	S- "I am going home tomorrow" - "Days I think I'll ever be cured" O- US @ 1.5 w/cm² x 6 min to above areas followed by ICT @ 35# x 15 min & HP as above. A- Subjective comment of "cure" may indicate pt is initially adjusting to limitations presented by the chronic problem of neck & back pain. P- Will follow until discharge. Shirley LPT
2PM	S: Absent the same as when seen O: Rx as above. A: Subjectively, no response P: Need to talk to discuss prognosis & Dr. Nelson before continuing Woodmansee PT
2-7-79 9:15 AM	S- No better, O- Discharged after Rx. US, Massage ICT & HP as above. A- Going home & no subjective relief P- D/c & f/u PRN Leigh Woodmansee PT Dr. Nelson

MMH FORM 86 PHYSICAL THERAPY RECORD

IAL MISSION HOSPITAL OF W. N. C., INC.

PHYSICAL THERAPY

3/14 F.S. I: LB pain
II: cerv. pain > AA
Head: ↓ pain.
Subj: my neck + (L) shld. really hurt
Obj: IC Tx. 70# → to 50# ± (L) shld. pain, Diathermy x 20min. (L) shld, massage - cervical area & (L) shld trigger pts. C4-5, (L) mid scapular, infra Distal clavicular area (L)
Assess: pt. very sore to palpation above areas, no indication of radiating pain at this time; mild spasm apparently located over upper trap area (L).
Plan: Cont. as outlined. R. Mesch/LPT

3-17 8:00 pm
S) Pt c/o ↑ pain (L) ear & ICTx - readjusted - able to tolerate ICTx well @ 35 lbs. says hasn't had recurrance of cervical - shoulder pain since this Am.
O) Rx: (1) ICTx @ 35 lbs - (2) cervical H.P (3) U.S pulsed 1.0 w/cm² x 6 min cervical spines (1) 5 ; 6 thin to trigger pt over T 3 rib - (L).
A) Cervical motion limited in all directions ± 50% prob 2° long standing spasm & pressure in tightness - no spasm, mild T.P. (L)
P) Continue. C Rodgers LPT

Kuykendall
417

PHYSICAL THERAPY RECORD

MEMORIAL MISSION HOSPITAL OF W. N. C., INC.

DATE

11-8-79

Dry Left (Dead xyls) Sacroiliac area. Problem & room mate Request transfer to other room.

DWalker

NOV 9th 1979

Dead xyls right Sacroiliac Dow

NOV 10th 1979

Less back pain — Has small area acute spasm L. Trapezius Laterally. Dry Dead xyls.

DWalker

NOV 11th 79

Still having acute pain in Trapezius. Cont Same Program

Nov 12th 79 DWalker

Less spasm in Trapezius, and less tenderness. Cont present Rx

DWalker

11/13/79

Tenderness & acute Spasm Lt Trapezius Inside dead xyls Back & Left Trapezius Better.

Dow

NOV 14th 1979

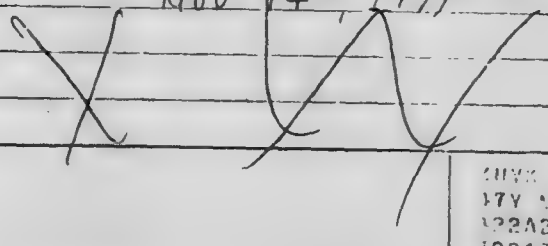


CHART MART INC.
NY NWI 37555
132A2 10-31-77 L. SMILE
500138-8

MEMORIAL MISSION HOSPITAL OF W. N. C., INC.

NOV. 1st 1979

Still having acute pain in neck & R. interscapular area. Pain at rest & exercise. Has ROM of c neck but pain w/ flexion & extension & lateral bending to left & right. Also c/o HA. L Waller

NOV 2, 1979

Pain up to my. Lower cervical area. DW

NOV 3 1979

Less spasm in R trapezius. Decreased pain in area just behind ear lobe. Continue present program DW

11-4-79

Less headache pain & less spasm in trapezius with exercise. Continue. L Waller

NOV 5 1979

Lumbar pain still acute. Less spasm & soreness in trapezius. May D/C Cervical Traction. L Waller

NOV 6, 1979

NOV 7 1979

Still having spasm in trapezius & lumbar area pain. Has not been on therapy x 2 days. Anxious to start. DW

KUYKENDALL HARTMAN RANKI
47Y MVM 375552
422A2 10-31-79 L. WALLE
398138-8

MEMORIAL MISSION HOSPITAL OF W. N. C., INC.

DATE

NOV. 13th 1979

Pain jaw acute on shoulder & trapezius
aries of above note read.

L Waller

Rep he has had no pt.

11-16-79

At rep he has an increase in generalized
aching in upper & lower back area.
Some tenderness of trapezius but muscle
spasm noted.

L Waller

NOV. 19th 79

No significant change in pain
Could be pain from PRN Should
he have myelograms?

L Waller

Would wait & ask on myelogram he has
no neurologic deficit I can detect.

THE FOLLOWING MEDICATIONS ARE TO BE RENEWED OR DISCONTINUED

1. Phenaphen 650 caps q 3-4
2. Tylox 5mg cap q 4-6
3.
4.
5.
6.

Medical Staff regulations require renewal of orders on control drugs after seventy-two (72) hours, unless the order indicates the exact number of doses or the exact period of time.

Pharmacy and Therapeutics Committee

11-24-79

Staff having pain around
Below. Continue Phenaphen
& DC Tylox

L Waller

EARL HARTMAN RAIKIN
10-31-79 L. WALLER

...ORIAL MISSION HOSPITAL OF W. N. C., INC.

DATE

THE FOLLOWING MEDICATIONS ARE TO BE RENEWED OR DISCONTINUED

1. Tylox 5mg cap i
2. Valium 2mg
3.
4.
5.
6.

Medical Staff regulations require renewal of orders on control drugs after seventy-two (72) hours, unless the order indicates the exact number of doses or the exact period of time.

Pharmacy and Therapeutics Committee

11-14-79 Dr Taylor →
Atenolam 50 mg ii q 5-4 hrs
Continue Valmane.
Has pain in upper posterior muscles + lumbar area this am.
L Waller

NOV. 15th 1979
Acute pain both trapezius and left paraspinal to upholding medial of Decadron Cont. present RX —
L Waller

NOV. 16th 1979
Acute pain Dr Nazzam Dex Decadron, will call at his consult.
L Waller

Consult dictated
Dx: Probable / Cervical Lumbar disc
Rec: Would like to try PT + medication a week or so, will follow if you
Thanks
Dr

KUYK
47Y
42202
99313

HARTMAN RANKIN
575552
10-31-79 L. WALLER
3-8

MEMORIAL MISSION HOSPITAL OF W. N. C., INC.

DATE

NOV. 25TH 79

C/p pain "all the time" — admits temporary relief o T. — Had been Dr. Weiss several months ago — Will ask his group to see once again

I wish I feel I had time to r/m pt. but I do not believe it true — Pt will be seen Thursday

11/26/79

I added Dr. Weiss' Consultation Note to the record (it is only 6 weeks old) Will not ask him to see Pt again, but will ask for EMG

11-27-79

will go ahead & myelogram

~~NOV. 29TH 1979~~

~~NOV 30TH 1979~~

~~DEC 1ST 1979~~ Sarathee Leith.

CITY BANK
CITY BMM 375552
232 10-31-79 L. MILLER

MEMORIAL MISSION HOSPITAL OF W. N. C., INC.

11-21-79

It appears that pt has many chiro symptoms which are not typical neck injuries etc. I wonder if pt has a migraine & he normal - I suggest to pt that these symptoms pt can't present running for another month.

11-22-79

pt seen pulm resident

11-23-79

11-24-79

S - Presents persistent pain (L) post cerv neck +/- improving.

O - ↓ ROM C-spine circumferentially c tender, (L) C-neck lateral and posteriorly c tender supra clavicular nerves as well. Depressed DTR's bilaterally c slight hypo esthesia (L) lat. periscapular and hand. ↓ str. ↓ abduction & external rotation (L) shoulder - tender over dorsal aspect of Lumbar spine.

A - Soft signs of C-7 disc protrusion, C-4-5 Frozen (L) shoulder syndrome Lumbar pain syndrome Chronic Chronic Myo-fasciitis Syndrome

P - per Ortho

MEMORIAL MISSION HOSPITAL OF W. N. C., INC.

DATE

11-30-79

IMP 1. Arthralgias / Myalgias etiology unclear certainly an HLA-B27 reactive process as well as a connective tissue disorder must be excluded

Rec 1. Lab HLA-B27, Maine Medical Sp. Studies, Thyroid profile, ANA, CPK

2. Bone Scan

3. Increase Indocin 50 mg c each meal & hs cc

Thank you for asking me to see Mr Kuykendall - will discuss him c you

WM Q

12-1-79

Has soreness in Neck & upper back. Pain radiates down upper back & anterior neck. Incr w above acts.

LC Waller

12-2-79

acute pain Left TM Joint Decad 1 yr 1/2 cc injected - relief. Having acute HA + neck pain now. Will pt to call for pain clinic appt.

LC Waller

CUSTOMER: RIDALL HARTMAN BANKIN
STOCK NO: 27552
DATE: 10-31-79 L. WALLER
158-0

MEMORIAL MISSION HOSPITAL OF W. N. C., INC.

[illegible] EMG report (full note dictated

DMP - Normal EMG sampling muscles in both arms (C_4-T_1) and both legs (L_4-S_1)

Radiology - Nov. 28th 1979 Dr. Smeltzer
lumbar and cervical myelogram without difficulty.
KH Thrasher

EMG normal, myelogram normal, do not believe pt. problem is orthopaedic

11-21-79
Will have Bell Watson Dept. re: Possible muscle inflammation. Still having pain & tenderness in Trapezius
Dr. Waller

Agree about

LAVERDALE HARTJAN BANKIN
47Y MWIA 375552
M2D2 10-31-79 L. WALLER
590130-8

MEMORIAL MISSION HOSPITAL OF W. N. C., INC.

DATE

Dec 5th 1979

Hands pain in L. arm + shoulder. Tx for L. axillary acute muscle spasm w/ Robaxin. Pelvic traction w/ pad was discontinued because of increased pain. Continue present Rx

Elwallace

Thyroid function tests ANA ⊖ - Lupus Mayo test now to be returned + HLA-B27+.

L. Ear improving. 12-6-79 Wound

12-7-79

Left arm redness has subsided, but pain is persistent. Discharged improved though not relieved. Office Serv. Reg. Ref. Ambulatory Rx's Clinic, Lymphedema #3 Cedar, Sedated.

Elwallace

MISSION HOSPITAL OF W. N. C., INC.

12/3/74

THE FOLLOWING MEDICATIONS ARE TO BE RENEWED OR DISCONTINUED

1. Percocet
2. Valium 5
3. Phenaphen (650)
4. Robaxin 3x
5.
6.

Medical Staff regulations require renewal of orders on control drugs after seventy-two (72) hours, unless the order indicates the exact number of doses or the exact period of time.

Pharmacy and Therapeutics Committee

These medications re-ordered. Has very acute left otitis media - Cedax 1 q 12 hrs and amalgam ordered.

E Waller

Dx unchanged - Pt now has supraclavicular pain ② shoulder ∴ would consider Scalene Syndrome - CPK & Scan WNL - would wait for HCT - B27 & thyroid tests now - If you desire he could go home as per ① & thyroid tests are concerned.

WRC

Still has left pain no change since admission, agree w above note

12-4-74

Left otitis media still very acute. Will Continue treatment here a little longer.

E Waller

ERDALL HARTMAN RANKIN
MWH 375552
2 10/31/79 L WALLER
30-3

280

MEMORIAL MISSION HOSPITAL OF W. N. C., INC.

AUTHORIZATION IS GIVEN FOR DISPENSING BY NONPROPRIETARY NAME UNDER FORMULARY SYSTEM UNLESS DRUG NAME IS CIRCLED

KU E ALL HARTMAN RANKIN
47Y MMM 375552
422A2 10-31-79 L. WALLER
398138-8

DATE/TIME | PHYSICIAN'S ORDER SHEET

NOV 5 1979

Clinoril 200 mgm ↓ Midday breakfast and Supper.

D. Waller

Noted W Robertson 7th Fl

B Jones 11 D Tipps

NOV 6, 1979

NOV 7 1979

Anturane 125 mgm TID PC

D. Waller

Noted K Watts 2D 8 7th Fl

Dr Hammond

11/5/79

Request transfer to other community hosp

D. Waller

Noted Dr Hammond 8th Fl

5:55 K Baxter RN

CHART COPY

DO NOT USE THIS SHEET UNLESS A RED NUMBER SHOWS →

MEMORIAL MISSION HOSPITAL OF W. N. C., INC.
AUTHORIZATION IS GIVEN FOR DISPENSING BY NONPROPRIETARY NAME UNDER FORMULARY [illegible] UNLESS DRUG NAME IS CIRCLED

[illegible] HARTMAN RANKIN
[illegible] MM 375552
432A2 10-31-79 L. WALLER
590130-0

PHYSICIAN'S ORDER SHEET

10/31/79 6:15 PM
① Bed rest
② Regular Diet
③ Tylox 5mg cap ÷ q 4 hrs prn pain
④ Intermittent Cervical ty Bid c Hydrocholator pack
⑤ Ephedrine tabs ii TID
⑥ SMA 12, CBC, UA T.O. Dr. Willis's office / KBaxter RN

KB KBaxter RN

Dr Willis

NOV 31 1977

① Have Sec Vital Reading x IV exam on floor for best myelogram Dr Willis
② Valium 5 mgm IV Dr Waller
③ Dalmane 30 mgs H.S tonight Dr Waller

Called 5pm Charles RN

Charles RN

NOV or mid 2, 1977

NOV 3 1979

11-4-79

Called 10:25 am Klass Cervical Spine today "Acute Neck Pain Disc"
1.45 D/C'd pt Dr Willis

[illegible] NUMBER SHOWS →

MEMORIAL MISSION HOSPITAL OF W. N. C., INC.

AUTHORIZATION IS GIVEN FOR DISPENSING BY NONPROPRIETARY NAME UNDER FORMULARY SYSTEM UNLESS DRUG NAME IS CIRCLED

[redacted] HARTMAN
[redacted] 52
[redacted] 10-31-77 L. WALLER
[redacted] 30130-0

PHYSICIAN'S ORDER SHEET

11-16-77

1. IV Relaxon 2 Bags in 250 cc 5% D&W q 12 h x 4 days
2. PT for ICT q d
   IPT q d
   menage
   medromilation
   HC Porter
   } Neck & calf Exercises b.i.d
3. DC Clinimil
4. Inderal 25 mg p.c. & h.s. - food
5. Valium 5 mg p.o. t.i.d
6. Xrays film Exam of Discharge Evening & H&P

Natrol W Lindsey
8:10 Am 5-25-77
B Hayes 1:00 5-25-77 Pm

NOV. 17TH 1977
11-18-77
11-19-77
11-20 19

1. DC Tylox
2. Continue Phosphates # 3 (650) II
3. Exercises
4. Discharge

Dr Waller

CHART COPY

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MEMORIAL MISSION HOSPI . W. N. C., INC.
VUYKENDALL HARTMAN RANKIN
47Y MWM 375552
AUTHORIZATION IS GIVEN FOR DISPENSING BY L. WALLER
NONPROPRIETARY NAME PRESCRIBING FORMULARY SYSTEM
UNLESS DRUG NAME IS CIRCLED

WILLARD
375551
22A2 11/1/79 GENTLING
00217

PHYSICIAN'S ORDER SHEET

Nov 9th 1979
Nov 11th 79
Nov 12th 79
11/13/79
11/14/79

① Phenaphen 650 Capp ii q 3-4 hours
Codeine gr ss
② Continue Dalmane 30 mg HS PRN
x 10 days. [illegible]
noted 9th N Spencer [illegible]
L Waller
q 20

NOV. 15th 1979
Stop Foley at bedside 3 squeezes
each instill / Increase by
[illegible]
L Waller
[illegible]
10

NOV. 16, 1979
① DC Foley
② Continue Phenaphen 650 ii q 4 hrs
PRN for 10 days.
See 11-20-79
L Waller

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284

MEMORIAL MISSION HOSPITAL OF W. N. C., INC.

AUTHORIZATION IS GIVEN FOR DISPENSING BY NONPROPRIETARY NAME UNDER FORMULARY SYSTEM UNLESS DRUG NAME IS CIRCLED

[illegible] MARY MARTHA GANKIN
[illegible] 375552
[illegible]B2 10-31-79 L. WALLER
[illegible]130-8
4½0

PHYSICIAN'S ORDER SHEET

Nov. 28th 1979

Post myelogram orders
(1) Flat in bed for 24 hours (9AM)
(2) Encourage fluids
(3) Resume previous orders

NA Flinn

Noted
Dean
Gus
1pm

Nov. 29th 1979

Nov. 30th 1979

WP (1) Change inderal to 50 mg q each meal & hs cc
(2) HLA-B27, SPEP, Marine Medical Special Studies, ANA, CPK, Thyroid profile
(3) Bone scan - eval ? tuberculosis in spine.

Noted 1pm Scottsville

Elbow RN @ 1:30pm

WP Flinn

~~Nov 31st~~ 1979

Dec 1st 1979

Continue Valium, Dalmane, Phenergan 50 and Ephagesic for 2 more days

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MEMORIAL MISSION HOSPITAL OF W. N. C., INC.

AUTHORIZATION IS GIVEN FOR DISPENSING BY NONPROPRIETARY NAME UNDER FORMULARY SYSTEM UNLESS DRUG NAME IS CIRCLED

[redacted] KUYKENDALL HARTMAN RANKIN
47Y MWM 375552
42202 10-31-79 L. WALLER
398130-6

PHYSICIAN'S ORDER SHEET

11-21-79
11-22-79
11-23-79
11/24/79
CBC, Wellcogen Sed Rate
[signature]
noted 9:05 pm 11/24/79
11-25-79
11/26/79
Schedule EMG of Arms and Legs
(per Dr. Jarrett request)
Noted 8:45 Markels 9:30 11-26-79
11-27-79
Complete myelogram after EMG
10:35
K Barton RN

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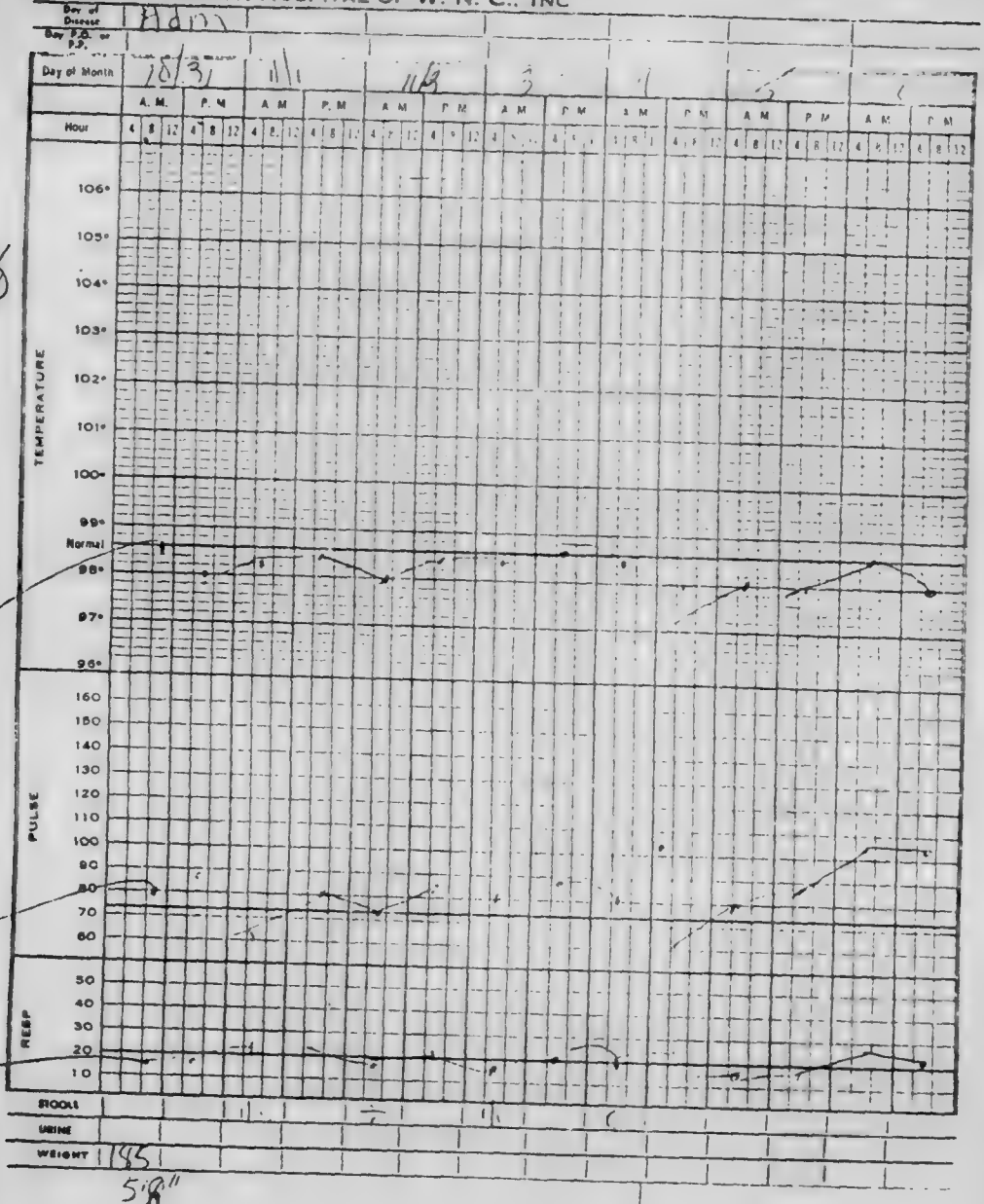

MEMORIAL MISSION HOSPITAL OF W. N. C., INC.

AUTHORIZATION IS GIVEN FOR DISPENSING BY NONPROPRIETARY NAME UNDER FORMULARY SYSTEM UNLESS DRUG NAME IS CIRCLED

[redacted] HARTMAN RAMON 285
[redacted] 5552
[redacted] 10/31/79 L WALLER
[redacted]

PHYSICIAN'S ORDER SHEET

Dec 2, 1979

12/3/79

① Auralgan otic drops III left ear TID

② ceclor 250mgm I TID.

③ ⑧ Apinol caps I BID L Waller

Patient Off Unit 8 am

12/4/79

12/5/79

12/6/79

12/7/79

Discharge.

L Waller

THE FOLLOWING MEDICATIONS ARE TO BE RENEWED OR DISCONTINUED

1. Dalmane 30mg
2. Phenaphen 650 gr
3. Equagesic caps
4. Valium 5mg
5.
6. expires 12/5

Medical Staff regulations require renewal of orders on control drugs after seventy-two (72) hours unless the order indicates the exact number of doses or the exact period of time.

Pharmacy and Therapeutics Committee

CHART COPY

DO NOT USE THIS SHEET UNLESS A RED NUMBER SHOWS →

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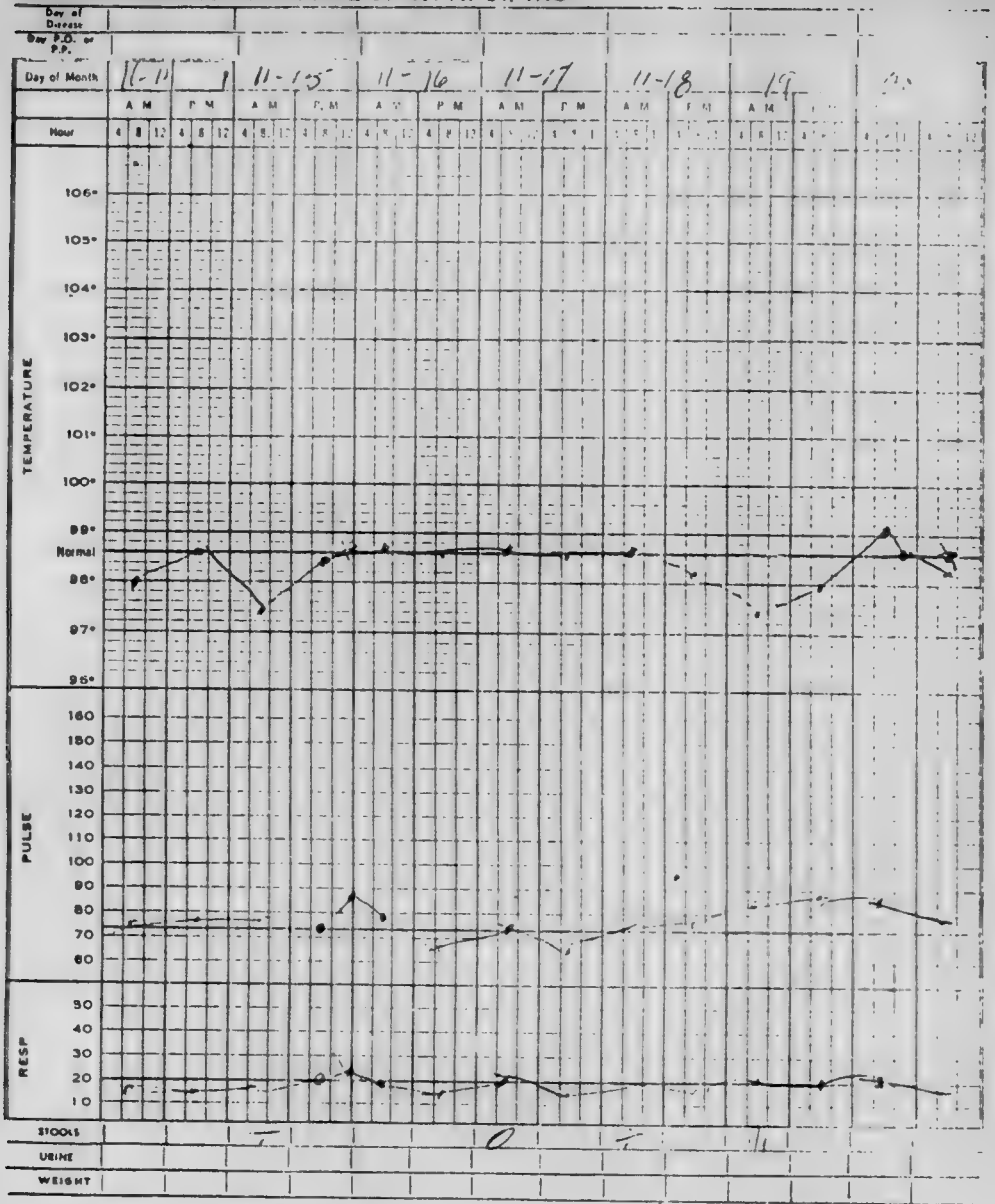
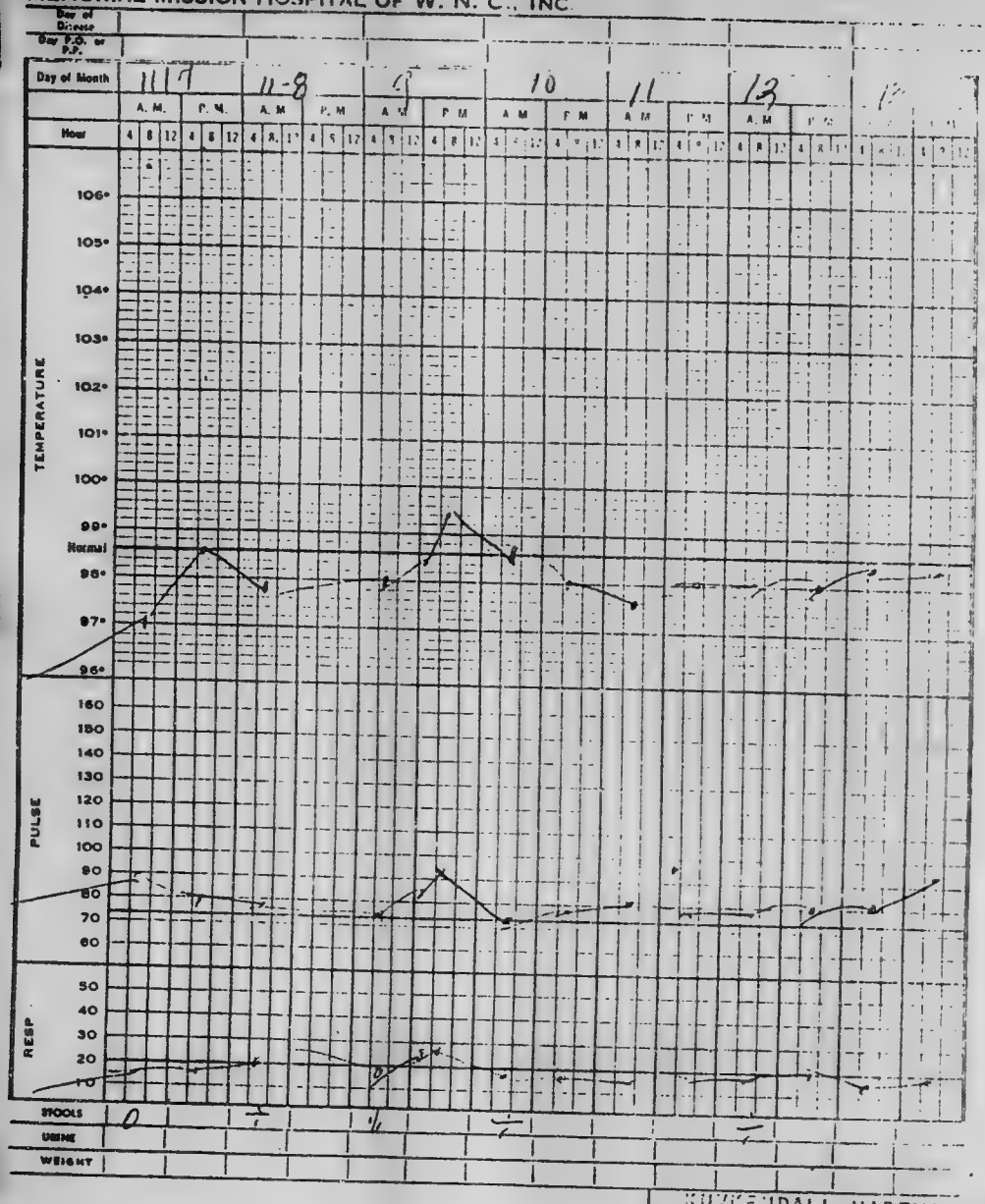


M M H FORM 12

GRAPHIC CHART

MEMORIAL MISSION HOSPITAL OF W. N. C., INC.

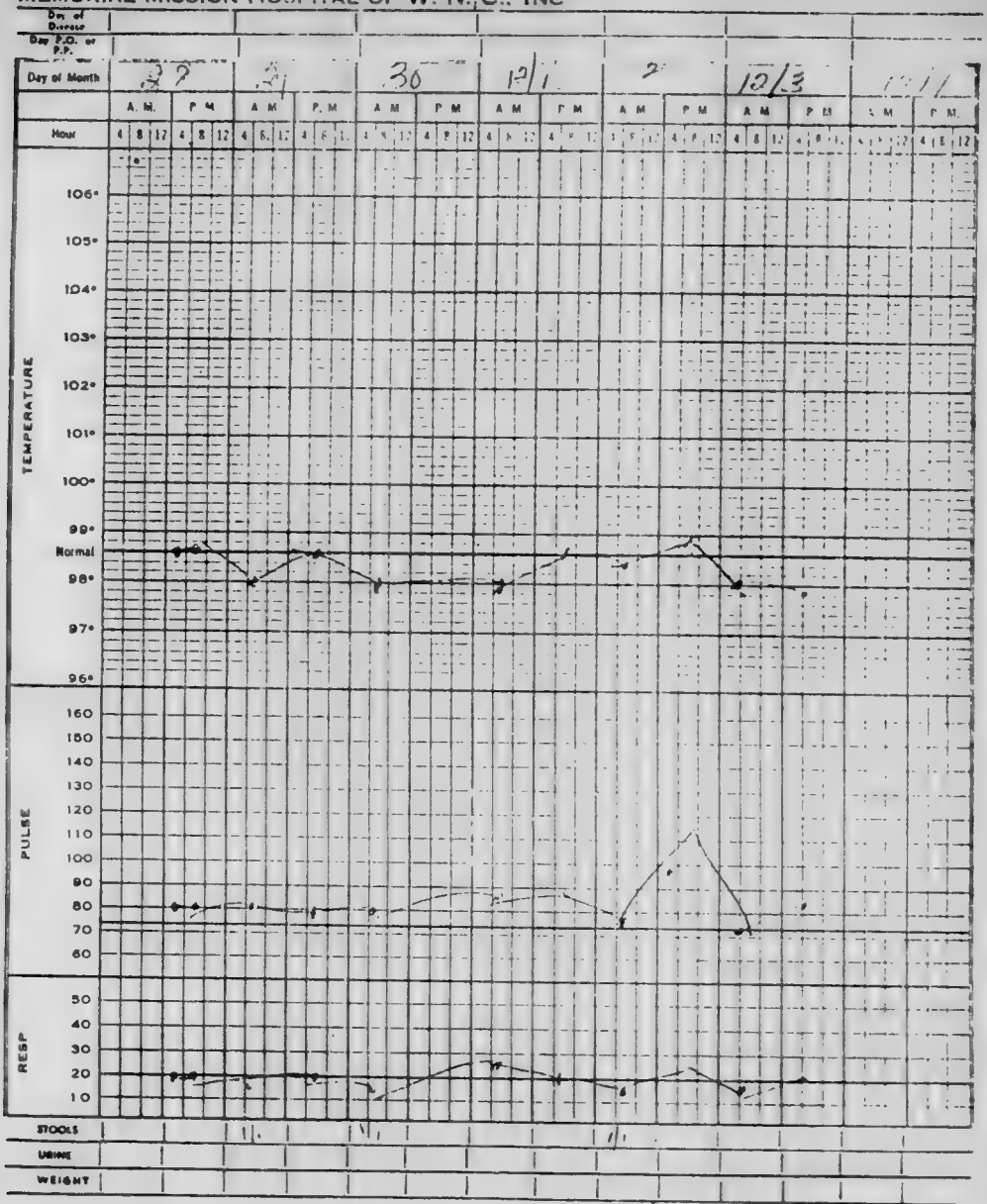


KIRKENDALL HARTMAN BANK
[illegible] 575552
[illegible] 10-31-79 L. WALLER
390138-9

M M M FORM 12

GRAPHIC CHART

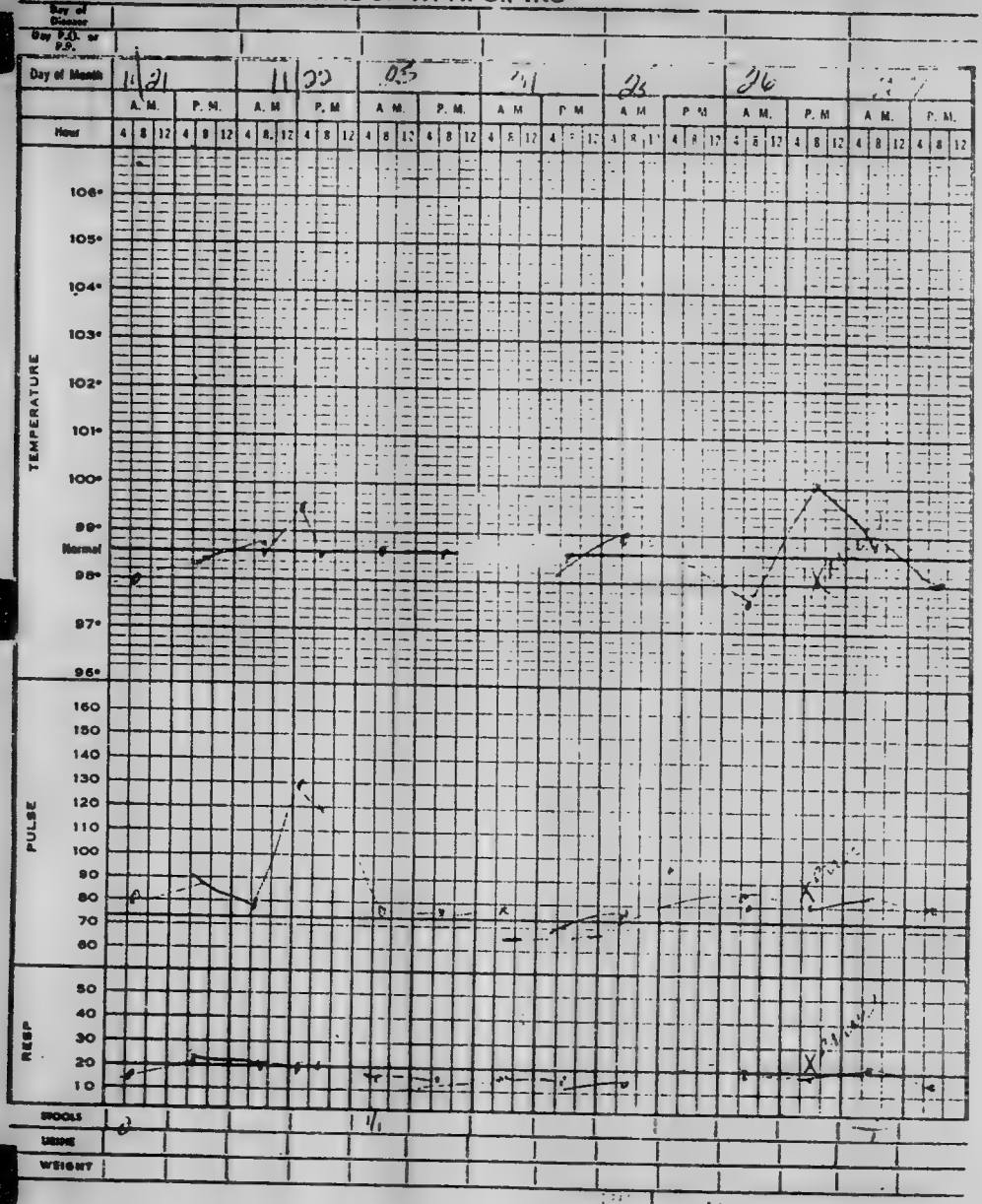
MEMORIAL MISSION HOSPITAL OF W. N. C., INC



M M H FORM 19

GRAPHIC CHART

MEMORIAL MISSION HOSPITAL OF W. N. C., INC



M M M FORM 15

GRAPHIC CHART

292

MEDICATION ADMINISTRATION RECORD

NAME

DIAGNOSES Acute Cystitis

ALLERGIC to Penicillin

PEL MER

IN PLACE Number of Forms in Use

CASE NO

177 [illegible] 10-21-79 L. WALLER

ROOM NO 2242 1-2-B

DR DATE INITIALS	DR DATE TIME	MEDICATION DOSAGE FREQUENCY RT OR ADM	HR	DATES GIVEN 10/21	11	12	1	2	3	4	5	6	7	8	9	10	11	12	11
10 ST		Equagesics tabs #1 T.D	10	X												X	NS	NS	
KS			4															TK	
			10															TK	
H I		Atarax 25 mg 3rd	10															NS	
22			2															NS	
			6															TK	
11/5		Clexane 200 mg																	
NH		- Midway breakfast	8															NS	
		and - midway : supper	5															TK	
		Antivert 12.5 mg	9															NS	
		1.d pc	1															NS	
			5															TK	

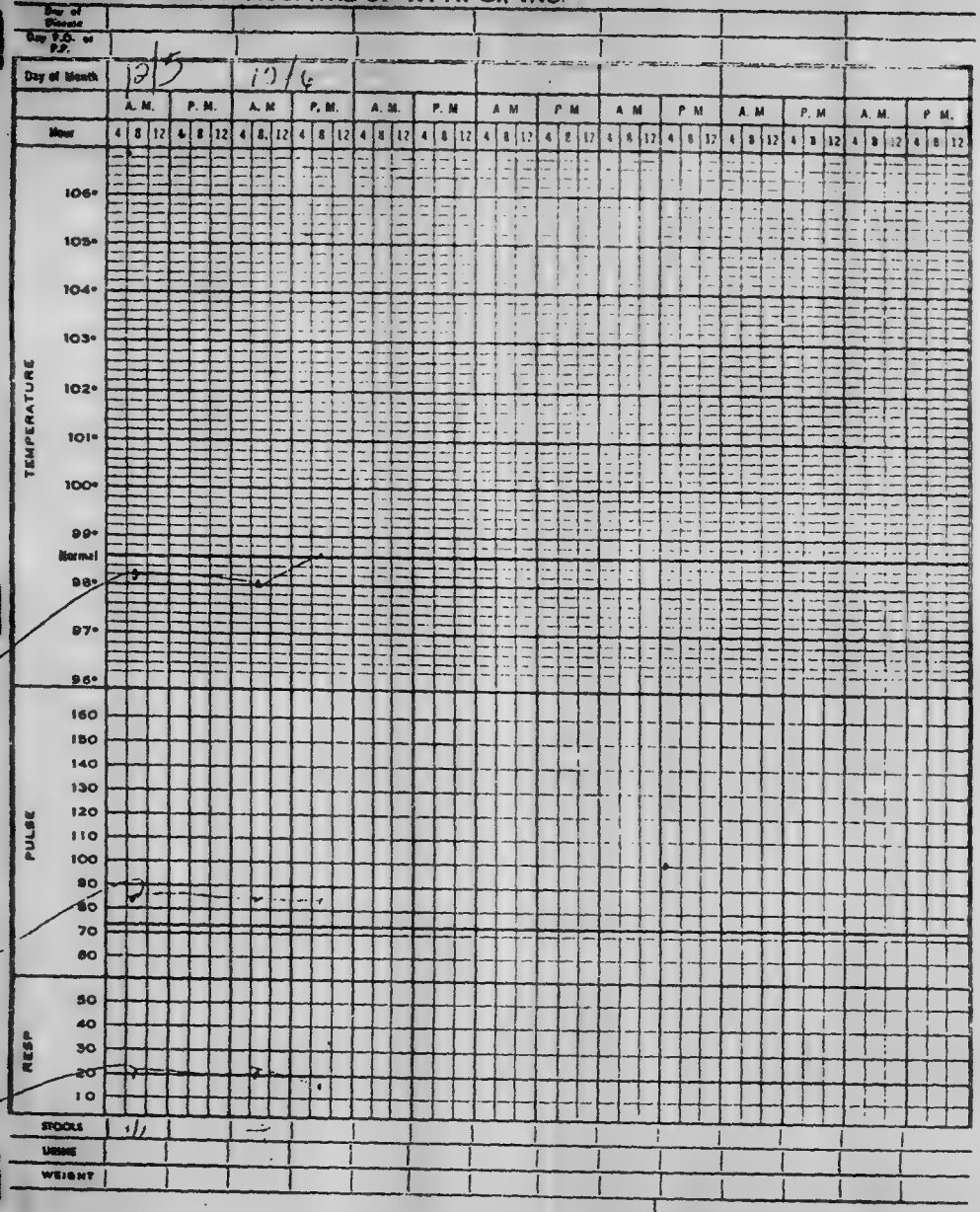
Single Orders + Pre-Operatives

DR DATE INITIALS	MEDICATION DOSAGE RT OR ADM	TO BE GIVEN DATE	TO BE GIVEN TIME	NURSE INITIAL	HR	MEDICATION DOSAGE RT OR ADM	TO BE GIVEN DATE	TO BE GIVEN TIME	NURSE INITIAL
	Dalmane 30 mg pm	11	15	[illegible]					

AGE 47 RELIGION DOCTOR Waller DATE/TIME ADMITTED 10-21-11 17

Uni/Ves Systems Division

MEMORIAL MISSION HOSPITAL OF W. N. C., INC.



GRAPHIC CHART

294

NAME

IVKENDALL HARTMAN DANIEL
CASE NO. 375552
2B2 10-31-79 L. WALLER
3130-0
ROOM NO.

DIAGNOSES & acute cerebellitis

ALLERGIC TO (Record all Reactions) Penicillin

DIN

Number of Forms in Use

Accepted 11-14-79

OR DATE / INITIALS	NP DATE / TIME	MEDICATION DOSAGE FREQUENCY RT OF ADM	DATES GIVEN HR	11/6	11/7	11/8	11/9	11/10	11/11									
		Equa. 400 tabs 1 PO tid	10															
			14															
			10															
		Atarax 25 mg tid (Vistaril)	10															
			2															
			6															
		Antivert 12.5 mg tid pc	9															
			1															
			5															
		Aprin 5 gr q 4 h prn pain	10															
		3 Equanil 400 mg PO tid (Not Given)	10															
		Valium 5 mg PO tid	10															
			2															
			6															
		Indocin 25 mg PO TID c food	9															
			1															
			6															
			HS															

Single Orders + Pre-Operatives

ENTER HERE IN DETAIL NO. OF ITEMS IN USE

OR DATE / INITIALS	MEDICATION DOSAGE RT OF ADM	TO BE GIVEN DATE	TO BE GIVEN TIME	NURSE INITIAL	OR DATE / INITIALS	MEDICATION DOSAGE RT OF ADM	TO BE GIVEN DATE	TO BE GIVEN TIME	NURSE INITIAL

AGE 21 RELIGION [illegible] DOCTOR [illegible] ADM. TIME & DATE 10/31/79

[illegible]

Uni/Use Systems Division

Initials	Full Signature	Title	Initials	Full Signature	Title

RN Medications

DATE / INITIALS	EXP DATE / TIME	MEDICATION-DOSAGE-FREQUENCY RT OF ADM	DOSES GIVEN
			DATE / TIME / INIT
			DATE / TIME / INIT
			DATE / TIME / INIT
			DATE / TIME / INIT
			DATE / TIME / INIT
			DATE / TIME / INIT
			DATE / TIME / INIT
			DATE / TIME / INIT
			DATE / TIME / INIT
			DATE / TIME / INIT

HEALTH RUBRICATION RECORD

296 [illegible] HALL INST NO: [illegible] JK
[illegible] CW1 575552
322D2 10-31-79 L. WALL
398138-0

DIAGNOSES Acute Coronary Syndrome

ALLERGIC
PENICILLIN

PEEL HERE

IN PENCIL Number of Forms in Use

SE NO.

OM NO. Received "Holter"

DATE / INITIALS	DISCONTINUED DATE / TIME	MEDICATION DOSAGE FREQUENCY RT OF ADM	HR
4/30		Equagesic tabs ii t.i.d.	10
			4
			10
4		Atarax 25mg t.i.d.	10
		(Withholding Sunday)	2
			6
4/5		~~Elavil 25mg~~	~~9~~
		~~Midday breakfast~~	~~1~~
		~~Ordering~~	~~X~~
4/6		Entocort 12.5mg t.i.d.	9
		p.c.	1
			5
		Atrovent Spray 2 bd.dose	10
		3 Squeezes each nostril	10
4/10		Valium 5mg PO TID	10
			2
			6
		Indocin 25mg PO TID	9
		a p.c.	1
			6
			10
		~~Rehydrated amp. Gentamicin~~	~~1~~
		X 4 Days IV	6

DAYS GIVEN

ngle Orders + Pre-Operatives

ENTER HERE IN PENCIL NO. OF FORMS IN USE

DATE / INITIALS	MEDICATION DOSAGE RT OF ADM	TO BE GIVEN DATE	TO BE GIVEN TIME	NURSE INITIAL

MEDICATION DOSAGE RT OF ADM	TO BE GIVEN DATE	TO BE GIVEN TIME	NURSE INITIAL

GE 47 RELIGION DOCTOR Hall DATE/TIME ADMITTED 4/29

4170

Uni/Like Systems Division

Initials	Full Signature	Title	Initials	Full Signature	Title
[redacted]	[redacted]	[redacted]			

PRN Medications

ON DATE / INITIALS	DISCONTINUED DATE / INIT	MEDICATION DOSAGE FREQUENCY RT OF ADM	DOSES GIVEN
		[redacted]	DATE / TIME / INIT
		Tylenol 650mg Caps 1 g 4 hr prn pain	DATE / TIME / INIT
		Dalmane 30mg HS prn	DATE / TIME / INIT
		Phenaphen 650 Caps 1 g 4 hr prn pain	DATE / TIME / INIT
			DATE / TIME / INIT
			DATE / TIME / INIT
			DATE / TIME / INIT
			DATE / TIME / INIT

208

DIAGNOSIS Acute Cervical Strain

ALLERGIC TO Penicillin DIET

DATES GIVEN

MEDICATION DOSAGE FREQUENCY ROUTE OF ADM	HR														
Cecion 25mg T.i.d	10	X													
Ativan Cap T.i.d	10	X													
	6	X													

Single Orders + Pre-Operatives

MEDICATION DOSAGE RT OF ADM	TIME GIVEN DATE	TIME	NURSE INITIAL

MEDICATION DOSAGE RT OF ADM	TIME GIVEN DATE	TIME	NURSE INITIAL

AGE 47 RELIGION DOCTOR DATE TIME ADMITTED 10 30 17

Uni/Use Systems Division

Initials	Full Signature	Title	Initials	Full Signature	Title
[redacted]					
	Debi Simpson				
	Donna Lucille				
	[illegible]				
	[illegible]				
	[illegible]

NAME 300

DIAGNOSES Ulcer ulcer ulcer

CASE NO.

ALLERGIC TO (Record on R. of)

DIET

ROOM NO. Recopied 11-24-79

DATE GIVEN	INITIALS	TIME	MEDICATION DOSAGE FREQUENCY OF ADM	HR	DATES GIVEN														
			Equagesic Tab tid	10		NS				NS									
				4															
				10															
			Atarax 25mg tid (visitors)	10		NS				NS									
				2		NS				NS									
				6															
			Antivert 12.5mg tid PO	9		NS				NS									
				1															
				5															
			Afrin Spray 2 each 3 squeezes each (visitors)	10		NS				NS									
				10															
			Valium 5mg PO tid	10		NS				NS									
				2		NS				NS									
				6															
			Dramocen 25mg PO HS @ bed	9		NS													
				1		NS													
				9															
			Robaxin 750mg PO qid	30															
			meals & hs & bfast	30															
				15															
				30															
			Hurolgan Otic drops tid Left ear tid	10															
				4															
				10															

Single Orders + Pre-Operatives

DATE	INITIALS	MEDICATION DOSAGE RT OF ADM	TIME GIVEN DATE	TIME	NURSE INITIAL	MEDICATION DOSAGE RT OF ADM	TIME GIVEN DATE	TIME	NURSE INITIAL

AGE 47 RELIGION DOCTOR DATE/TIME ADMITTED

Initials	Full Signature	Title	Initials	Full Signature	Title
[redacted]	Deanna Wallace	[illegible]	[illegible]	[illegible]	[illegible]
[redacted]	[illegible]	[illegible]	JM	[illegible]	LPN

PRN Medications

DATE INITIALS	ACTUATE TIME	MEDICATION DOSAGE FREQUENCY # OF ADM	DOSES GIVEN
			DATE
			TIME
			INIT
			DATE
			TIME
			INIT
			DATE
			TIME
			INIT
			DATE
			TIME
			INIT
			DATE
			TIME
			INIT
			DATE
			TIME
			INIT
			DATE
			TIME
			INIT

302

MEMORIAL MISSION HOSPITAL

DATE: 12-2

	INTAKE						OUTPUT						
	ORAL	IV	TUBE	BLOOD	OTHER	TOTAL	URINE CATH.	VOID	EMESIS	TUBE	OTHER	STOOL	TOTAL
6AM-2PM													
2PM-10PM	440							300					
10PM-6AM	60												
24HR. TOT.	500							480					
DATE:	12-3												
6AM-2PM													
2PM-10PM													
10PM-6AM													
24HR. TOT.													
DATE:	12-4												
6AM-2PM													
2PM-10PM													
10PM-6AM													
24HR. TOT.													
DATE	12-5												
6AM-2PM													
2PM-10PM													
10PM-6AM													
24HR. TOT.													
DATE													
6AM-2PM													
2PM-10PM													
10PM-6AM													
24HR. TOT.													
DATE													
6AM-2PM													
2PM-10PM													
10PM-6AM													
24HR. TOT.													
DATE													
6AM-2PM													
2PM-10PM													
10PM-6AM													
24HR. TOT.													

RECORD INTAKE AND OUTPUT IN CC'S.

PATIENT IMPRINT

Initials	Full Signature	Title	Initials	Full Signature	Title
DW	Donna Wade	RN	NL	Nancy Lopez	RN
DG	Diane Legenda	RN	TL	[illegible]	LPN
KJ	K Bass	[illegible]	VM	Victoria Mendez	LPN
KH	Kenneth Hall	[illegible]	AB	Adrian Bellegra	RN
			MM	Mary Ann Rodgers	RN

PRN Medications

Date Initials	Time	Medication Dosage Frequency Nt of Adm	Doses Given			
		~~[illegible]~~	DATE			
			TIME			
			INIT			
12		Robaxin 1gm	DATE			
		IV	TIME			
		prn	INIT			
1		Tylenol-Codeine	DATE	12	12	12
		Caps #3 1-2 po	TIME	1300	0900	2300
		q4h prn pain	INIT	D	D	KH
			DATE			
			TIME			
			INIT			
			DATE			
			TIME			
			INIT			
			DATE			
			TIME			
			INIT			
			DATE			
			TIME			
			INIT			

ACTIVITIES OF DAILY LIVING
MEMORIAL MISSION HOSPITAL OF WESTERN NORTH CAROLINA, INC.

VITAL SIGNS
Temp. _____
B P. _____
Pulse _____
Resp. _____
Neuro. Signs _____
_____

SENSORIUM
Vision _____
Hearing _____
Speech _____
Upper Ext. _____
Lower Ext. _____
Alert _____
Confused _____
Disoriented _____
Coma _____

DIET
NPO _____
Regular _____
Other _____
pleas pri[illegible]

ACTIVITIES
Position _____
Bedrest
BRP _____ BSC _____
Dangle _____
Chair _____
Wheelchair _____
Walker _____
Ambulate _____
Up Ad Lib _____
_____

MODE OF TRAVEL
Wheelchair _____
Stretcher _____
Ambulatory _____

FEEDING
Self _____
Prepare Food _____
Assist _____
Must [illegible] _____

CAUTION
Bedrails _____
Restraints. _____
Diabetic. _____
Seizure. _____

FLUID BALANCE
I & O _____

INTAKE
I V _____
Site _____ Date _____
_____
_____

OUTPUT
Urine _____
Stool _____
Foley _____ Date _____
Foley Care _____
S & A _____
Enema _____
Levine _____
Suction _____
Irrigate _____
Clamp _____
Chest Tube _____
Emerson _____

HYGIENE
Bathe _____
Perineal Care
Mouth Care _____
Dentures _____
Skin Care _____
_____
_____
Other _____
_____

RESPIRATORY THERAPY
Oxygen _____
Mode _____
Humid. _____
Trach. _____
Trach Care _____
_____
Suction _____
IPPB _____

DAILY LAB:
_____
_____
_____
Daily Wt. _____

RESOURCE NURSE _____

TREATMENTS

TEACHING & OR DISCHARGE PLANS

Date Revised
2-16-77

ALLERGIC
Penicillin
PEEL HERE

ADMITTING DIAGNOSIS: Acute Cervical & Lumbar Strain CURRENT DIAGNOSIS: _____ SURGERY: _____

[redacted] PATIENT'S NAME Kirkendall, Patricia AGE 47 DOCTOR Wallace/Garrett

NURSING SERVICE

MMH
3/7/78

ADMISSION WORKSHEET

1. Patient's name and room number: Hartman, Kenneth 423 A
2. Admitting diagnosis: Acute Cerumen Attack Sinus Attack
3. Time and Mode of Admission:

____A.M., 2:30 P.M., ✓ walking, ____ wheelchair, ____ stretcher

4. Identification armband: ✓ yes ____ no
5. Allergies: Pen
6. Valuables list: Watch wedding band class ring & necklace all gold
7. Drugs brought with patient: ____ yes ____ no
   Medication nurse notified: ____ yes ____ no
8. Physical Facts:

   A. Vital Signs: B/P rt. arm 130/80; temp. 98.4; pulse 80;
   lt. arm ____; resp. 18

   B. Actual Height 5' 3"

   C. Actual Weight 133

   D. Prosthesis: limb ____; hearing aid ____; other ____;
   eye ____; glasses ✓; none ____

   Teeth: own ____; dentures ____; upper ✓; lower ✓
   Denture cup present: yes ✓; no ____

9. Room Orientation:

   A. Demonstrate

   1. Nurse call light ✓
   2. Radio control ✓
   3. Over bed table ✓
   4. Bedside table ✓
   5. Operation of electric bed ✓

   B. Explain

   1. Intercom ✓
   2. Telephone ✓
   3. Locker ✓
   4. Toilet ✓
   5. Bathing Facilities ✓
   6. T.V. Rental ____
   7. Smoking Rules ____

   C. Admission Kit: yes ✓ no ____

   D. Introduced to Roommate: yes ✓ no ____

10. Information source (if other than the patient):

    Name ____ Relation ____

    Admitted and Oriented by: [illegible]

MEMORIAL MISSION HOSPITAL OF W. N. C., INC.

DATE	HOUR	
10/31	3-11	[illegible] Pt has been incontinent of bowel and bladder multiple times. Pt has had bowel and bladder incontinent pad present. Upheld good. No complaints at present time. [illegible] RN
		November 1st 1977
	12	Asleep @ present time. No pain noted
	400	asleep @ present time. No pain noted
	7-3	Pt slept most of the night. Up to BR x 3 assist. Incontinent of bowel x 3. Changed linens and pt. Pt resting comfortably. Will continue to monitor. KLB, LPN
	7[3d]	98.4-80-22, apical radial, pad pat applied at 6[a]. Upheld well. Resting quietly, no complaints, up to BR x 1 assist. Will continue to monitor. [illegible] RN
	HS	Patient sleeping at present time.
		November 2, 1977
	12[00]	Pt. asleep @ present. No complaints noted. Will continue to monitor. [illegible] RN
11/2	8[00]	Sent to OR via stretcher accompanied by RN x 1. Chart sent with pt. Pt returned from OR via stretcher accompanied by RN x 1. Chart sent with pt.
	8[2d]	98.1-80-20, pad pat applied. Pt awoke at 6[a]. Upheld well. No complaints at present. [illegible] RN

NURSING CARE PLAN

DATE	GOALS: PROBLEMS/OBJECTIVES	NURSING CARE PLANS	DATE
11/11	#1 Back Pain (Conservative Treatment)		
	Nursing Objective 1. Relief of Pain	Nursing Action 1. Administration of Pain medication + Muscle relaxants as ordered by doctor	
	2. A. Explanation of Treatment to Patient B. Reassurance	2. A. Explanation to Patient of Traction Flexion or Pelvic B. Explain Hot Pack Routine C. Encourage Patient to go to Physical therapy D. Encourage bed rest with BRP only E. Listen to what Patient has to Say.	

Acute Cervical & Lumbar Strain

MISSION DATE 10/31/79

MISSION WT.

TELEPHONE-NEXT OF KIN

11/28 Completed - Nurse

CONDITION:

LEVEL OF CARE

SURGERY/DATE

ADMITTING DIAGNOSIS: Acute Cervical & Lumbar Strain CURRENT DIAGNOSIS: SURGERY:

CSH NO. [redacted] PATIENT'S NAME Kykendall, Norman [redacted] AGE 47 DOCTOR Waller/Ga[redacted]

MEMORIAL MISSION HOSPITAL OF W. N. C., INC

DATE	HOUR	
	3-11	[illegible]
		[illegible]
		[illegible]
		[illegible]
		[illegible]
	11	[illegible]
		[illegible]
	1[illegible]	[illegible]
		[illegible]
	[illegible]00	[illegible]
	8	B/P 140/90
11/5		Up to shower. Not put to rest while in cervical [illegible] Has been up to BR. No specific complaints voiced
11/6	3-11	[illegible]
		[illegible]
		[illegible]
		[illegible]
		Nov 6, 1979
	1[illegible]	[illegible]
	12	[illegible]
	200	[illegible]
		[illegible]
		[illegible]

[illegible] BRIAN DANKIN
[illegible]
[illegible] 10-31-79 L. MILLER
[illegible]

MEMORIAL MISSION HOSPITAL OF W. N. C., INC.

DATE	HOUR	
		NOV 3 1979
	8:00	
	9:00	
	10:00	
	6:00	
	11:00	
	8:00	
	10:30	
	11:00	
	2:45	

PATIENT'S PROGRESS

MEMORIAL MISSION HOSPITAL OF W. N. C., INC.

DATE	HOUR	
11/7	3 11	Denies [illegible] applies [illegible] [illegible] [illegible]

MEMORIAL MISSION HOSPITAL OF W. N. C., INC.

DATE	HOUR	
		11-6-79
	8[00]	Patient states that the second fracture has decreased the pain in the back of her shoulder, but the second is still causing considerable — K Hazelwood
	2[00]	102/76 - 76 - 104 p.c. Self A.M. care. Pt states he doesn't sleep well because it gets too warm in him —
	10[30]	Had pucz & cervical lg applied. No unusual redness noted from pad pack — P. Roper RRN
	2[00]	Resting in bed. Up to BR. No c/o voices — P. Roper RRN
11	3[11]	Pt up & ate approx ½ meal. Applied ice pack will let pack stand, pt light & will turn & — Kaitakoff RN
		NOV 7 1979
11	12[00]	Pt ambulated to BR — M Williams RN
	4:00	Given ice pack to keep at present time. Patient — L Hazelwood RN
	8[00]	B.P. 96/62
	13	Patient noted ambulating in the halls several times on the night given to each shift, the left pack kept in place the thought to be shoulder — L Hazelwood

MEDICAL RECORD HARTMAN RANKIN
[illegible] 575557
[illegible] 10-31-79 L. MILLER
[illegible] 0-0

M. M. M. FORM 14 — PATIENT'S PROGRESS

MEMORIAL MISSION HOSPITAL OF W. N. C., INC.

DATE	HOUR	
11/10	7-3	Self Ambulates BR. Pt. Amb. to BR. voids qs. Void & urinal. Foley d/c'd prn. Hot pack to back of neck. Pt. Resp @ 10. Cervical lg prn. Pt. appears to @ ease due to roommate. Encouraged to ambulate & void as much as possible. Resting @ present. C/O ——— M Williams RN.
	3-11	130/76 Tyl and Cb 1 tab po. Hot pack applied to neck. Ambulated to BR. Appetite good. Pt. resting. C Evans RN
		NOV. 11TH 1979
	2AM	Appears to be resting. No complaints of pain @ present ——— L Lucas RN
	400	asleep @ present. No noted complaints ——— M Jenkins RN
	7-3	97°, 80, 16. AM care done by self. Up ad lib. Voiding 4-3- Hot pack to neck in am. Cervical in pt's Appetite good. No verbal c/o. ——— M Dillingham, LN
	3-11	132/86 Tyl and Cb. Ambulated to BR. Hot pack applied to neck as requested. Pt. resting. C Evans RN.
		11-12-79
	12AM	Resting quietly. No complaints ——— C Lightfoot
	400	pt. asleep. no distress noted at night Mgt
	600	pt is getting up to sit ——— M Jenkins RN

PATIENT'S PROGRESS

MEMORIAL MISSION HOSPITAL OF W. N. C., INC.

DATE	HOUR	
11/9	8:00	Afebrile. BP 118/80 Alert oriented. Skin warm dry. Resp N.M. Heart sounds - clear to ausc. Ate 1/2 of bkfst. Voids. Up and ab. — M Blackwell, G.N.
	11:00	Cervical hy. used X 1½ hrs, Hot water Hot pack to neck X 20 min. — M Blackwell, GN —
	2:00	Rose for short intervals. No voices c/o. M Blackwell, G. Ambulated [illegible] Voiding adequately [illegible]
	4:00	Alert. Oriented. Resting in bed — K. Schumacher N.R
	4:00	Cervical hy. applied for 30 min. Relieved well. Hot pack on for 30 min. Relieved well. NO C/O PAIN — K Schumacher N.R
	8:00	VS 135/80 78-72 reg, — K. Schumacher N.R.
	12:00	[illegible]
		[illegible] — D.T. Flynn RN —
	4:00	Pt up and in bed sleeping No verbal c/o
	6:30	Pt ordered to remain NPO Going to [illegible] this morning Next bed [illegible] Pt up several times during night at times unable to sleep — [illegible]
11/10	8am	VS 118/72 BP 22-18

[illegible] BALL HARTMAN RANKIN
377 MRN 375552
323 10-31-79 L. BALLER

PATIENT'S PROGRESS 590150-0

MEMORIAL MISSION HOSPITAL OF W. N. C., INC.

DATE	HOUR	
		Cont'd
		Pt ambulates in room [illegible]
	3-11	Pt ate all of supper. Asst'd to ambulate to BR. Pt had BM. Voiding qs. Cervical pillow not pack to neck. Vitals q shift. Resting @ present. [illegible]
		November 14th 1977
	12 MN	Asleep @ present. No problems noted.
	4 AM	Same as above
	7-3	Self care done. Hot pack and cervical traction applied & pt. Pt alert and in good spirits. C/o total of pain in back of neck & feeling scared. Feeling comfortable in bed
11/14	3-11	Asst'd ambulated. Offered cup to BR. Refused. Ordered HOB-1 KOB-1. Cervical traction hot pack x 30-40 mins, hot pack was wrapped in a towel & applied. C/o sore neck pain. Applied & explained the purpose of cervical traction. [illegible]
		November 15th 1977
	12 MN	Asleep @ present. No problems noted.
	4 AM	Asleep & quiet. No distress
	8 AM	97.6 76 18
	7-3	Self care done this am. Hot pack & cervical traction applied. Resting & comfortable

PATIENT'S RECORDS

MEMORIAL MISSION HOSPITAL OF W. N. C., INC.

DATE	HOUR	
12	8pm	98.2-78-18 Client tormented. Self H.M. tried care. Up to BR. Resting - HOB to 45° ↑ (aw)
	11:00	Cervical ↓ x 1 hr, + prn. Hot pack wrapped in towel + 2 bath blankets applied to neck X 30 min. No unusual redness noted p removal. H2O on floor at bedside. Wiped up + towel + housekeeping notified. Pt. instructed to be careful when up. M Blackwell, CNA
	1:30	Appetite present. Visiting w/family. No problems. MSB, RN
11/12	3:11	12am SC 98-80 R up. Left carotid applied with ice pack. Appetite good pt resting quietly at present with no complaints. KC Mitchell NA
		11/13/79
	9:00	Seems to be ready at present. Skull tong ~~with~~ in the back and brace ~~fastened~~ fastened to the x-ray table. ~~Pt. tong~~ Although no order was written. Pt back
11/13	8am	13am
		Surgical H+P and lab reports found. Pulses palp. Consent for PRN Shot Demerol 1/2 @ 10 PM. Pt. c/o pain being "dizzy" and Zomax given @ 10 PM. Pt. resting quietly. Will continue to monitor.

MEMORIAL MISSION HOSPITAL OF W. N. C., INC

DATE	HOUR	
	7-3	Self A/M care in BR. Pt. A/O to BR. Vitals stable. Eating all of meals. Alert & oriented. Cares for Rel pack @ 10 cm. Resting most of shift 3-10 (RN Williams) DM
11	31	[illegible]
		[illegible]
		[illegible]
		[illegible]
		[illegible]
		[illegible]
		[illegible]
	15th	[illegible]
11	18	7-3 Self [illegible]
		[illegible]
		[illegible]
		[illegible]
		[illegible]
		[illegible]
		[illegible]
		[illegible]
	10:30	[illegible]

MEMORIAL MISSION HOSPITAL OF W. N. C., INC.

DATE	HOUR	
11/15	10[illegible]	98.4-12-60, cranial traction applied by pt. Losing quality of pain & complains. Sawyer N.A.
		NOV. 16th 1979
11/16	12 MN	pt. awake, responds to simple commands. Vs stable N/A
	4:00	pt awake and c/o complains. Vs stable N/A
	8:00	B. 11½ 12-7½-18-2
	10:00	Self care care, are delegated, ambulation to be determined, Neb pack + Flex TX. as ordered, Intermittent well - knee changed c/o pain in knee area. Rx Tylenol 3's 1 q 4 hrs. pt. sitting up in chair, pt. ambulated 3 times at this time. pt. helped back to bed. pt. up in chair, pt. ambulated in hall with walker. pt. tolerated ambulation well. Pain controlled. Sawyer NA
		NOVEMBER 17th 1979
11/17	12 MN	Doctor to be called at present. Blood Sugar 110 mg. 21 INT units given. Foley catheter discontinued. Ambulation with walker, resting quietly. No complaints voiced. Light Gen
	4:00	

[illegible] 975555 ANN RANKIN
[illegible] 10-31-7[illegible] L. MILLER

M M H FORM 14 PATIENT'S PROGRESS

MEMORIAL MISSION HOSPITAL OF W N C INC

DATE	HOUR	
		11-21-77
	1200	pt c/o leg (r) pain x 4. ——— Dr Jackson
	5 00	128/80 - 75 - 16 - 98 ——— L Littleton RN
	9:00	Leg cast dark, appears swollen, circulation
		WNL remaining to d/c'd. Pt moved
		of floor unaware during night as pt did
		not want being able to get back to sleep.
		no other problems noted. ——— L Littleton RN
	10 PM	Pt called 3 times, asked for Nalpack.
		4 7ix 7x. Pt rested no more problems in
		P.T. L Littleton RN
	8 pm	VS T 97 - BP 130/70
	3-11	Pt eating well, voiding qs. Pt to BR prn.
		Wet pack d/c'd. Pt's leg remains elevated
		well. Alert & oriented. Resting mostly daily
		3 c/o ——— M Williams RN
		NOV. 22, 1977
11/22	12 00	~~cast~~ calap @ present time Dispenses
	4 PM	appears to be unhappy @ present.
		Pt complaints this am ——— L Fowler
	8 00	Alert & oriented. VS WNL.
	10 00	Cervical traction applied & helpack x 20 min
	2 00	Resting comfortably awaked & no other
		complaints, ——— L Belcher RN
	3-11	Ix applied. Resting in bed with eyes closed

[illegible] Hospital [illegible]
[illegible] 3755
[illegible] 10-31-7[illegible] L. MILLER
[illegible]

MEMORIAL MISSION HOSPITAL OF W. N. C., INC.

DATE	HOUR	
		11-19-77
		November 19th 1977
11/19	12 00	Appears to be sleeping @ present. C. Light GPN
	7-3	Self cares. Up to BR + Shower Ambulates ext & Ext pack - Toileted well. No complaints @ present time O'Keefe GPN Eg Walker -
11/19	3-11	11-19-77 20 YO has had rectal traction without pack present time quality at present with no complaints Kendall RN
	11 PM	
	12 00	asleep in bed on Contact Precautions Per
	400	120/80-91-88-20
	830	Self cares Up to BR + Shower - No C/O Ext pack at home Walker GPN
	10 30	Intermittent IV started with occ Started on Q Lancers S. Shaw RN.
	12 00	Rectal 14 x Ext pack used Pickett RN
	3 00	120/80 98 18 18 O'Keefe GPN
	3 11	20 YO Female Rectal 14 x Ext pack x 14 hrs. Ambulates with assist. Pain @ surgical site. Has removed own Ext pack & denies any complaints at this time Pickett RN

PATIENT'S PROGRESS

M. M. H. FORM 14

MEMORIAL MISSION HOSPITAL OF W. N. C., INC.

DATE	HOUR	
		November 23rd 1979
11/23	12[00]	Sleeping. No complaints. L. Lilliston
	400	Patient resting at present, no complaints at this time. L Sheldon
11/23	8[00]	c/o[8] 78 18 Cesarean section. Hx of A Mercer Case Cephalic Presentation excellent Uterine tone firm Bleeding scant Bowel sounds present Voiding clear yellow urine via foley cath. Foley cath to remain in place for 24 hours. Patient to be turned every 2 hours while in bed. Patient to be out of bed to chair with assistance on 11/24/79. Patient to ambulate in hall with assistance on 11/25/79. Patient to be discharged on 11/26/79. Patient and husband instructed on above plan of care. Verbalized understanding. D73 Sheldon
	10[45]	Back to room, P.C. Hot pack in place. Pt. resting comfortably. Husband at bedside. Family by. D73 Sheldon
	11[30]	BP 130/80 Pt. resting comfortably. Husband at bedside. Family by. Pt. denies pain at this time. Pt. to receive Demerol 50 mg IM q 3 hrs prn pain. Pt. to receive Valium 10 mg IM q 6 hrs prn muscle spasms. Pt. to receive Colace 100 mg po bid prn constipation. Pt. to receive Feosol 300 mg po tid. Pt. to receive Ampicillin 250 mg po qid. Pt. to receive Percocet 1 tab po q 4 hrs prn pain. Pt. to receive Motrin 400 mg po q 4 hrs prn pain. Pt. to receive Maalox 30 cc po q 4 hrs prn indigestion. Pt. to receive Dulcolax 10 mg PR prn constipation. Pt. to receive Milk of Magnesia 30 cc po prn constipation. Pt. to receive Benadryl 50 mg po q 4 hrs prn itching. Pt. to receive Tylenol 650 mg po q 4 hrs prn pain. Pt. to receive Phenergan 25 mg po q 4 hrs prn nausea. Pt. to receive Dramamine 50 mg po q 4 hrs prn nausea. Pt. to receive Compazine 10 mg po q 4 hrs prn nausea. Pt. to receive Vistaril 50 mg po q 4 hrs prn nausea. Pt. to receive Phenergan 25 mg po q 4 hrs prn nausea. Pt. to receive Dramamine 50 mg po q 4 hrs prn nausea. Pt. to receive Compazine 10 mg po q 4 hrs prn nausea. Pt. to receive Vistaril 50 mg po q 4 hrs prn nausea.
		11/24/79
	12[00]	Pt. resting comfortably. S. c/o w pain. M Dillingham, RN
11/24	12[45]	
		Baby girl born at 1200 noon. Weight 7 lbs 8 oz. Length 20 inches. Apgar 8 and 9. Baby to nursery.

10-31-7 MARKIN
10-31-5 L. MILLER

M.M.M. FORM 14 PATIENT'S PROGRESS

MEMORIAL MISSION HOSPITAL OF W. N. C., INC.

DATE	HOUR	11-26-79
11-26	11:30	~~Flagyl 1 gm IV to go~~
	11:30	Flagyl 1 gm IV to go
11/26	8-3:30	Self Mi Care, Ambulating, Ht Pat To Carnival Visit at 10 AM — M Rollins SNA
	8 pm	~~150/80 48-88-22 irregular~~
	3 pm	100/80 - 100-86-18
11-26	3-11	pt ...

Chronic 2° 1979

11/27	12:00	Vitals & Assessment done C Maggard
		Dr Jarrett here
		Myelogram Scheduled
		EKG done by Dr Martin
		(W. Contours) to ... Check pulses
		V. Sanders RN
11/27	7-3	Self Mi Care in BR. Pt does all his Personal Cares. Vitals q 8 Heart & Lung Sounds Clear to ... Int pack at groin @ 10 - done by Dr Mc. Distal pulses c/s — M Williams RN
	3 pm	BP 130/80 - 84 16. T 99.8. Lopid Feb - Alert, Oriented Pt. Ty - No C/o the Pt ... M Saunders

PATIENT'S PROGRESS

MEMORIAL MISSION HOSPITAL OF W. N. C., INC.

DATE	HOUR	
		11-26-79
7-26	11:30	[illegible]
	11:30	[illegible]
11/26	8:35	Self Mt Care, Ambulating, Hot Pack To Cervical Neck & Arm — M Lewis SNA
	8 pm	150/80 - 48 - 22 - 2100 (10)
	3 pm	160/80 - 100 - 86 - 18
	3:11	pt [illegible]
11/27	12:00	(Continued on Progress Note Sheet) Anne Cottingham RN
		Physician Ordered Ice Pack To Neck Dr. Martin
		(1) Continued Ice To Neck Pain
		K Sanders RN
11/27	7-3	Self Mt Care in BR. Pt does all his Personal Bathing needs. Ordering Pt Meal & Assisted Care to pain - Hot pack to neck @ 10 - done for Mrs Pain Rating on pain Sc — Ts Williams RN
	3:00	160/80 - 84 - 16 - T 98 - Lopid Pt Self Oriented - Quiet - No C/O Pain at this Time

M. M. M. FORM 16 PATIENT'S PROGRESS

MEMORIAL MISSION HOSPITAL OF W. N. C., INC

DATE	HOUR	
		Goal:
		Patient ambulating in the room, still
	2000	complaining of a lot of neck pain. Bluerelief
	3/1	BP 142/80. Hot pk to neck x 20min,
		followed up to BP. Appetite good.
		A&O x 3, cervical tx + hot pk "does
		nothing for me." Pt alert oriented
		to time, place, + person. C. Williamson RN
		November 25th 71
11/25	1200	pt asleep & present — M. Gonka RN
	400	appears to be resting & present no pain
		complaints noted — C. Williamson
11/25	500	1:24
		A&O x 3, Oriented. Appt. pain, but
		c/o of pain always during bathing hips
		and tries to B.R. but c/o pain and
		refuses tries — M. Barkman RN
	2000	Patient up and ambulating down to
		physical therapy — L. Mueller RN
	3-11	pt sleeps most of time. Ice applied and
		refused. Cervical traction + hot pack removed
		Denies any other complaints voiced at present — L. King RN
		11/26/71
	400	Transferred from Room 222B to 417 M — Charlie G
	400	on stretcher pt is unable to sign admission form

MEMORIAL MISSION HOSPITAL OF W. N. C., INC.

DATE	HOUR	
11/29	8	110/78
	3	Surgical. Taken to clinic by OR's [illegible] patient voided upon return to unit. Dressing intact. T.C.D.'s [illegible] Report given to [illegible] RN
	11	Placed on bipap. Vitals q4h. Alert & oriented. Has pain in neck & chest. MD to see pt. Sarnias. Obtained with. Resting most of shift. S/O [illegible] Williams RN
		November 30th 1977
11/30	12M	Appears to be sleeping & present. Appears to be having a sound sleep. [illegible] Hughes RN
	N	Awake & present. Slept for short intervals. Resting & comfortable. [illegible] Blankenship RN
11/30	3-11	No complaints during evening. Pt up to [illegible] Montgomery RN
		[illegible]
		[illegible] complaints voided [illegible]
	4	Patient resting at present, no complaints [illegible] Hughes RN
	8	B/P 150/70
11/30	0?	[illegible] to be done at 1:30 p.m. Pain [illegible]

[illegible] BANKHEAD
[illegible] MILLER

H M M FORM 14 PATIENT'S PROGRESS

MEMORIAL MISSION HOSPITAL OF W. N. C., INC.

DATE	HOUR	11-28-71
	4[00]	
	8[00]	Patient up and ambulating to the bathroom seems happier with the change in room — Eliquis Rd
		November 28th 1971
11/28	12[00]	Pt. ambs. to BR & back on own. Pain controlled. — Williamson Rd
	4[00]	Ambulating NAD for surgery. Slept most of afternoon. Vitals stable. No pain. — Thompson Rd
	9[45]	myelogram done. M Knight RT
11/28		IVPB 2 mg Morphine w/ 10 cc Normal Saline - Given
	1452	Phenaphen 650 mg p.o. for H/A - Edwards
	2[00]	BP 134-82 - P 82 - R 20 - T 98.2 - Pt. remains flat in bed - Vitals unchanged - Williamson
	10[20]	Phenaphen 650 mg p.o. for H/A pain — Matthews
		Nov - 29th 1971
11/29	12[00]	Flat in bed, appears to be sleeping comfortably — Fisher
	6[00]	Slept for long intervals. Vitals stable. No complaints of pain. — Williamson

SYNCHRONY BANK
27Y MW1 379550
2202 10-01-7[illegible] WALLER
[illegible]

MEMORIAL MISSION HOSPITAL OF W. N. C., INC.

DATE	HOUR	
		12/3/14
	12	[illegible]
	5	[illegible]
		[illegible]
12/3	8:00	110/80 Self Care Up Ad Lib [illegible] noted
		Appetite fair Voiding [illegible] Present time
		pt refused bed Ambulates to states he gets
		Up 2x a day in pt No problems
		@ Present [illegible] Lorretta LPN
12/3/14	10:00 PM	Quiet Will Rising & pain to [illegible] Kaiser RN
		Dec 4th 1914
12/4	12:00	[illegible]
	7:3	125/72 - 17 - R1 Dr Self Care
		Up and Ad Lib Appetite fair Voiding
		good Refused covered Ly Hot pack
		applied X 45 min, pain control Relieves
		noted No Report at present noted LPN - Report
	10	A Dr [illegible] Woman's Hosp
		Dr [illegible] Patient taken to Hospital - Ambulance
12/4	8:00	110/80 R 20 T 98
		Up Ad Lib, Ambulates Hot pack applied
		X 45 min. Voiding well Appetite fair No
		C/o noted [illegible] Evelyn RN
		Dec 5 1914
12/5	10	Alert & Cl no complaints talking
		on telephone ambulating Ad Lib Comfort Staff

PATIENT'S PROGRESS

M M H FORM 14

MEMORIAL MISSION HOSPITAL OF W. N. C., INC.

DATE	HOUR	
12/1	7:3	Self AMCare, upper back pain x1 — C Brooks Santos
	11:30	Prompan 600mg po given for c/o pain M Dillingham, CMA
	2:10	Bone scan completed B Nichols R.T. (N)
	4:00	Pt states he is "dressed" but is nonspecific — is anxious to know bone scan results — L Summers LPN
12/1	3:41	[illegible]
		Dec 2, 1977
12/2	12:00	pt ambulating and is complete bedrest p.r.n.
12/2	9:45	Phenaphen 650mg po given for c/o pain — D Lovell LPN
	7:3 10:00 24	Seizures and B.K. — Nausea Diffic. [illegible] Lidocaine [illegible] Buchanan RN
	3:30	Phenaphen 650mg po given for c/o pain — N Hammond RN
	3-11	Ambulated in hall frequently. Denied to c/o pain & had periods of time spent in bed & ambulating in room. [illegible]

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MEMORIAL MISSION HOSPITAL
PATIENT DISCHARGE AND TEACHING FORM

PATIENT STAMP

[illegible] HART VAN RAUKTH
[illegible]
[illegible] 10-31-72 L. WALLER
[illegible]

Date of Discharge	Attending Physician At Discharge
12-7-77	Wellons

Admitting Diagnosis: Acute Cervical Cervicalgia

Final Diagnosis:

Personal Effects (Include Drugs and Valuables)
☐ None ☐ Sent With Patient

Medication(s) Discharge On:
Phenaphen #3 Hs - [illegible]
Sinutab 4 mg #24 - [illegible]

Follow-up Visit With Physician Planned	Patient and/or Resp. Party Know Date and Time	Method of Discharge
☐ YES ☐ NO	[ ] YES ☐ NO	[ ] Wheelchair ☐ Stretcher ☐ Ambulatory

Patient Accompanied By	Patient Appear Satisfied With Discharge Conditions (i.e. Environment Released To)	If No, Has Social Services Been Contacted
☐ Family Member ☐ Staff Member	[ ] YES [ ] NO →	[ ] YES ☐ NO

Name of Relative or Guardian	Address	Telephone
Elizabeth Kuyk	[illegible]	( ) [illegible]

General Discharge Nursing Assessment (Physical and Mental Status, Signs, Symptoms, Problems, Conditions, Complaints, Diet)

Alert & oriented
States understands
D/C home

Home instructions given by Waller

Nurse's Signature: [illegible]

TEACHING FLOW SHEET

DATE	CONTENT	EVALUATION/DATE	SIGNATURE AND TITLE

MEMORIAL MISSION HOSPITAL OF W. N. C., INC.

DATE	HOUR	
	4:00	cervix at Second time : Breathing ... in bed at this time : Blue Lip
	7-3	Self Am cath BP - Pt. Paddle. Voids 95 Clear tyc hot pack refused @ 10 clear to Pt. Calls nsgs. Call ground. Vesting @ present time — M. Williams RN
12/5	3.11	Blue color. Moved quiet in & out B.P. when pain stimulation. Is in bed. — L. Gardner RN
		Dec 6th 1979
12/6	12:00	Resting quietly at present time with no complaints — B. Bradley
	1:10	Secure to be taking at present time Blue Lip
	5:00	98-84-20 Self Am cath @ BP - Stupor bk - Resting at bed rest — D. Walker RN
	8:00	Refused Cervical tyc hot pack — D. Walker RN
	9:00	98-84-18, hot pak applied to back and to wash tx 2 x resting already plus O x c P.T. up to BR prn — Anne B. NA
		12-7-79
12/7	12:00	Cervix 2 cm ... 50% ... seen by Dr. Walker tube & IOL set — K Baxter RN

WNC ARTHRITIS CLINIC, P.A.
203-A DOCTORS BUILDING
ASHEVILLE, NORTH CAROLINA 28801

TELEPHONE 704/258-9533

WILLIAM F. WILSON, MD

DIPLOMATE:
AMERICAN BOARD OF RHEUMATOLOGY
AMERICAN BOARD OF INTERNAL MEDICINE

May 20, 1982

TO WHOM IT MAY CONCERN

RE: Hartman Kuykendall

Mr. Kuykendall continues under my [illegible] the treatment of arthralgias and myalgias which may be secondary to a chronic inflammatory disorder. He has continued to be out of work. I do feel Mr. Kuykendall is permanently disabled for a job which would require streneous activities. I do not anticipate change in this condition.

If additional information is required, please feel free to contact me.

Sincerely,

William F. Wilson, M.D.
WFW/rj

LOUIS C. [redacted], M. D.
DIPLOMATE AMERICAN BOARD OF FAMILY PRACTICE
1423 PATTON AVENUE
ASHEVILLE, N. C. 28806

June 18, 1984

Mr. Scott Jarvis, Attorney
P. O. Box 7533
Asheville, N. C. 28807

RE: Hartman R. Kuykendall

Dear Mr. Jarvis:

Mr. Kuykendall has acute fasciomyositis (Fibromyalgia) of the muscles of his upper and lower back, his neck, trapezius and rhomboid muscles, and lesser involvement of his upper arms.

These are associated with HLA B-27 positive antigen, and hyperimmunoglobulin M which are often found with other Collagen diseases. He has intermittent bouts of arthritis in his shoulder and lumbar spine joints.

His condition is permanent, and there is no known cure. He cannot sit for any length of time without pain and so he cannot do desk or other less active work.

Prednisone and Clinoril lessen his acute pains but do not relieve it.

He is totally and permanently disabled. See Dr. William Wilson's letter in your file.

Sincerely,

LCWaller

Louis C. Waller, M. D.

LCW:bw

A W A R D

1. Defendant shall pay plaintiff the additional sum of $15,[illegible].00 in a lump sum without commutation.

2. Defendant shall pay $2,500.00 to Attorney J. Lawrence Smith.

3. Defendant shall pay the sum of $1,[illegible].00 to Attorney Henley F. Tolson.

4. Defendant shall pay all unpaid medical expenses incurred by plaintiff as a result of his injury to date of the agreement, and so further, when fully [illegible] have been submitted to the Commission through the self-insured employer.

5. Defendant shall pay all hearing and appeal costs.

Compliance with the agreement together with the foregoing provisions of this order shall fully acquit and discharge Defendant from any and all further liability under the Workers' Compensation Act by reason of the accident giving rise hereto.

[illegible]
[illegible] H. [illegible]
CHAIRMAN

CONCURRING:

[illegible]
[illegible] M. [illegible]
COMMISSIONER

[illegible]
CHARLES A. CLAY
COMMISSIONER

WBB/mm
01/26/32

NORTH CAROLINA INDUSTRIAL COMMISSION

DOCKET R-5509

HARTMAN P. MULTENBAIL,	Employee, Plaintiff;	O R D E R
-vs-		FOR THE FULL COMMISSION
CITY OF ASHEVILLE,		APPROVING COMPROMISE SETTLEMENT AGREEMENT
SELF-INSURED,	Employer;	P E R
	Defendant.	WM. H. STEPHENSON CHAIRMAN

FILED: JAN 7 1983

This case came on for review before the Full Commission on November 19, 1982. Prior to the review hearing the parties settled their differences and the Commission is presently in receipt of a compromise settlement agreement embodying the terms of settlement.

A P P E A R A N C E S

Plaintiff: J. Lawrence Smith, Attorney, Asheville, N. C. (Now Withdrawn)

Wesley F. Talman, Jr., Attorney, Asheville, N. C.

Defendant: Richard S. Daniels, Attorney, Asheville, N. C.

* * * * * * * * * * * * *

The Full Commission is of the opinion that the agreement is to the best interests of the parties and should be approved.

IT IS THEREUPON ORDERED that the agreement be, and the same is hereby, approved upon condition that defendant comply with the following:

WHEREAS, all four physicians were later deposed by Defendant and their respective depositions filed with the North Carolina Industrial Commission (hereinafter "Commission"), (the contents of these four depositions being incorporated herein);

WHEREAS, there was great discrepancy among the expert medical opinions of the four physicians regarding Plaintiff's condition, to wit: said opinions ranged from finding Plantiff to have no permanent disability (Dr. Cappiello) to finding Defendant to be totally disabled (Dr. Waller);

WHEREAS, the Defendant has made two payments to Plaintiff totalling $6,000.00, which payments were approved by the Commission as advances to be credited to any compensation later awarded to Plaintiff on account of temporary total disability or permanent partial disability;

WHEREAS, with the exception of said advances, no agreement was reached between the parties concerning the proper amount of compensation to be paid to Plaintiff;

WHEREAS, a second hearing was held on December 17, 1981 for the purpose of determining the proper amount of compensation due to Plaintiff, at which time certain items were stipulated into evidence including the depositions of the four physicians who had theretofore been or were thereafter deposed;

WHEREAS, the above-described deposition of Dr. David Cappiello was thereafter taken and filed with the Commission and the record herein was closed on April 9, 1982 by order of the Commission;

WHEREAS, the Commission entered a second Opinion And Award on May 12, 1982 (the terms of which are incorporated herein) which concluded, among other things, that Plaintiff was entitled to temporary total disability benefits from October 26, 1979 through December 3, 1981, and awarded to Plaintiff compensation at the rate of $171.68 per week for so long as Plaintiff remained disabled and neither reached maximum medical improvement nor was offered a job which was suitable to his capacity;

STATE OF NORTH CAROLINA
COUNTY OF BUNCOMBE

BEFORE THE NORTH CAROLINA INDUSTRIAL COMMISSION
I.C. DOCKET NO. H-5509

HARTMAN R. KUYKENDALL
Employee/Plaintiff

vs.

THE CITY OF ASHEVILLE
Employer/Carrier/Defendant.

AGREEMENT OF FINAL COMPROMISE SETTLEMENT AND RELEASE

This Agreement Of Final Compromise Settlement and Release (hereinafter "Agreement") made and entered this 30th day of November, 1982, by and between the above named parties:

W I T N E S S E T H:

WHEREAS, the North Carolina Industrial Commission has heretofor entered an Opinion And Award herein on December 2, 1980 (the terms of which Order And Opinion are incorporated herein and not contested by the parties), which found that Plaintiff was entitled to benefits under the North Carolina Worker's Compensation Act as a result of Plaintiff having sustained an injury by accident arising out of and in the course of his employment on July 20, ~~1980~~ 1979, but which Opinion And Award specifically left the issue of the amount of compensation to be awarded for later agreement by the parties or for rehearing;

WHEREAS, after December 2, 1980, Plaintiff was re-examined by Dr. Louis C. Waller and Dr. William Wilson, and examined by Dr. Carlos Agudelo at the direction of Dr. Waller and examined by Dr. David Cappiello pursuant to request by Defendant, all of said physicians being licensed North Carolina physicians;

to the Commission.

2. The Defendant shall pay the appearance fees of all physicans as set forth in the May 12, 1982 Opinion And Award.

3. The Defendant shall pay all costs incurred in obtaining the May 12, 1982 Opinion And Award and incurred in the approval of this Agreement.

4. The Defendant shall pay, in lump sum, the sum of $24,500 to Plaintiff in full settlement of all claims which Plaintiff has ever had or will ever have for temporary total disability, permanent partial disability and any other type compensation resulting from his employment with Defendant, payable as follows:

a. $6,000.00- has already been advanced as set forth above

b. $15,000.00- payable upon the approval of this Agreement

c. $3,500.00- paid as attorneys fees $2,500.00 to J. Lawrence Smith and $1,000.00 to Wesley F. Talman)

5. The Plaintiff does hereby knowingly and intentionally remise, release and forever discharge the Defendant of and from any and all and every manner of action and actions, cause or causes of action, suits, debts, dues and [illegible]ney, judgments, demands and claims whatsoever, which against the Defendant he ever had or may now have or which his heirs, next-of-kin or personal representatives, or any other person whomsoever, hereinafter can, shall or may have by reason of or growing out of the terms and provisions of the North Carolina Worker's Compensation Act on account of the alleged injury of July 20, 1977 ~~1980~~, which gives rise to this claim for compensation, and for any other disability or medical benefits sustained by him.

WHEREAS, Defendant thereafter timely filed all necessary pleadings to perfect its appeal of said May 12, 1982 Opinion And Award to the full Commission upon those issues stated in Defendant's Application For Review filed on August 24, 1982;

WHEREAS, Defendant recognizes that some compensation is due to Plaintiff;

WHEREAS, Plaintiff recognizes that the medical evidence before the full Commission is so varied as to permit many results upon the appeal to the full Commission and now desires that a certain amount of compensation be awarded without any risk and without incurring further delay or costs of appeal;

WHEREAS, Plaintiff also has pending claims to Defendant for certain other benefits, the payment of which, if any, might be affected by the payment of future worker's compensation benefits and Plaintiff therefore desires to now finally and forever determine his rights with respect to Defendant pursuant to the North Carolina Worker's Compensation Act;

WHEREAS, Defendant also now desires to finally determine its liability to Plaintiff pursuant to the North Carolina Worker's Compensation Act and to finally conclude and dispose of this claim; and

WHEREAS, the parties have agreed and stipulated that the appeal to the full Commission of the May 12, 1982 Opinion And Award be postponed until this Agreement may be presented to the Commission for review and approval;

NOW, THEREFORE, in consideration of the foregoing and the promises hereinafter recited, the parties hereto agree that:

1. The Defendant shall pay all medical bills incurred by the Plaintiff for the treatment of his injury up to and including the date of the execution of this Agreement, after said medical bills and this Agreement have been submitted to and approved by the Commission. The parties acknowledge that, upon information and belief, all medical reports now existing have been submitted

9. This Agreement is made expressly subject to approval by the North Carolina Industrial Commission, either by award duly issued or by endorsement of its approval hereof, and that said award or approval shall be binding on the parties hereto.

This the 30th day of November, 1982.

WITNESS:

WITNESS:

WITNESS:

WITNESS:

Employee/Plaintiff (SEAL)

Attorney for Plaintiff

City of Asheville,
Employer/Carrier/Defendant

By: K. M. Michalove
Mr. K. M. Michalove

Attorney for Employer/Carrier/
Defendant

6. The Plaintiff knowingly and intentionally agrees that any and all rights which he may have as a result of any changing condition under and by virtue of the provisions of the North Carolina Worker's Compensation Act giving him the right to reopen this claim for compensation or medical benefits at any time within two years from the date of the last payment of compensation under an award by the Commission are waived and the Defendant is expressly and particularly released from any and all further liability to him by reason of any right or claim he may have, or which may hereafter arise, to reopen this action and claim further benefits, whether compensation, medical or otherwise.

It is understood and agreed by the Plaintiff that in making this Agreement, he was not influenced by any representations or statements regarding his condition or regarding any other matters, made by any person, firm or corporation or by any physician or surgeon acting for or on behalf of the Defendant; that the facts in connection with his employment and with his resulting injuries are fully known, understood and comprehended by him; that his rights under the Worker's Compensation Act are thoroughly and completely understood by him and that he is acting with the advice of his own legal counsel.

7. This Agreement contains the entire agreement between the parties hereto and the terms of this Agreement are contractual and are not mere recitals, and the sums of money recited in this Agreement to be paid upon order of the Industrial Commission is all that the said Plaintiff will ever receive.

8. This Agreement in no way affects any right or rights of any of the parties hereto other than those arising under the provisions of the North Carolina Worker's Compensation Act, and such other right or rights are neither compromised nor released hereby. These rights specifically include, but are not limited to, Plaintiffs right to make claim for certian retirement benefits and, in the event such benefits are granted, Defendants right to an offset for all sums paid to Plaintiff on account of temporary total disability and permanent partial disabiltiy.

A P P E A R A N C E S

Plaintiff : J. Lawrence Smith, Attorney, Asheville, (now withdrawn)

Wesley F. Talman, Jr., Attorney, Asheville, counsel of record.

Defendant : Richard S. Daniels, Attorney, Asheville, counsel of record.

* * * * *

The hereinabove referenced Opinion and Award and Orders as well as the Stipulation are incorporated herein by reference.

Based upon all the competent evidence in the record, the undersigned makes the following additional

FINDINGS OF FACT

1. Following the injury by accident giving rise hereto on 7-20-79, plaintiff experienced pain in his back and shoulder areas but continued working, except for a few days, until October 26, 1979.

2. Beginning 8-31-79 and continuing thereafter, plaintiff has been treated on a regular basis by Dr. Waller for the injuries received as a result of said accident. Treatment has included anti-inflammatory, muscle relaxant and pain medications. Dr. Waller referred plaintiff in November 1979 to Dr. Wilson because of persistent tenderness and spasm in the muscles of his neck and back and for evaluation of inflammatory processes. In addition, Dr. Waller referred him to North Carolina Memorial Hospital Rheumatology Clinic for a second opinion.

NORTH CAROLINA INDUSTRIAL COMMISSION

DOCKET H-5509

Hartman Kuykendall,	Employee, Plaintiff,	OPINION AND AWARD
-vs-		BY
City of Asheville,	Employer,	Wm. L. HAIGH
Self-Insurer,	Defendant.	DEPUTY COMMISSIONER

FILED: MAY 12 1982

This matter was initially heard by the undersigned on 11-7-80 in Asheville and resulted in an Opinion and Award filed 12-2-80 as more fully appears of record. By Order filed 9-3-81, Chief Deputy Commissioner Shuford approved a Consent Order of the parties providing for the payment of the sum of $4,500.00 to plaintiff as an advance, said amount to be a credit toward any award of temporary total disability or permanent partial disability compensation. By Order filed 9-18-81, said Deputy Commissioner approved an attorney fee for Mr. Smith in the amount of $500.00. In addition, by Stipulation dated 12-18-81, defendant agreed to advance, without prejudice, the sum of $1,500.00 to plaintiff, said amount to be credited toward any award of temporary total disability or permanent partial disability compensation. No testimony was taken at the scheduled hearing of 12-17-81 in Asheville and the record was thereafter held open until 5-4-82 for depositions and other matters. It is now ready for determination.

plaintiff has been temporarily totally disabled from 10-26-79 up through and including 12-3-81 and he has not yet reached maximum medical improvement. Although he was able, as of February 1980, to perform a sedentary job answering the phone on a limited work schedule initially, the evidence fails to disclose that defendant has offered or procured a job for plaintiff which is suitable to his capacity.

The foregoing findings of fact and conclusions of law engender the following additional

CONCLUSION OF LAW

As a result of the injury by accident giving rise hereto, plaintiff has been temporarily totally disabled from 10-26-79 up through and including 12-3-81 and he is entitled to compensation therefor at the rate of $171.68 per week, less a credit in the amount of $6,000.00 for money advanced to plaintiff. Inasmuch as he has not yet reached maximum medical improvement, defendant shall continue to pay said rate of compensation to him after 12-3-81 so long as he remains so disabled and has not either reached maximum improvement or has not been offered a job which is suitable to his capacity. Defendant has not offered or procured for him a job suitable to his capacity. G. S. 97-29; G. S. 97-32 and G. S. 97-42.

3. Dr. Wilson first saw plaintiff 11-30-79 while hospitalized and has thereafter continued to treat him for an HLA-B27 reactive arthralgia-myalgia syndrome which manifests itself as spasm of muscles, including those of the back and calves, loss of motion, diffuse tenderness, and significant pain and soreness occurring all over but primarily in the shoulders and pelvic girdle area. Plaintiff, genectically, has an HLA-B27 antigen disorder which predisposed him to the development of the above referenced syndrome. The injury by accident giving rise hereto precipitated and triggered the syndrome and the onset of his resultant symptomology and disability.

4. Although plaintiff was struck by an automobile in August 1969 and thereafter received treatment, including conservative treatment by Dr. Waller in 1971 for flare-up of pain in the neck and shoulder, he had no permanent partial disability of the neck or back as a result thereof and thereafter returned to work and remained employed until after the injury by accident giving rise hereto.

5. Plaintiff was also hospitalized in June 1981 at North Carolina Baptist Hospital in Winston-Salem for evaluation by, among others, Dr. Agudelo and he was examined on 3-30-81 by Dr. Cappiello on referral from defendant.

6. As a result of the injury by accident giving rise hereto,

4. Defendant shall pay the costs, including the following expert witness fees: Dr. Louis Waller of Asheville, $200.00; Dr. William Wilson of Asheville, $150.00; Dr. David Cappiello of Asheville, $125.00; and Dr. Carlos Agudelo of Winston-Salem, $250.00.

IT IS HEREBY ORDERED that this cause be REMOVED from the Asheville hearing docket.

William L. Haigh

Wm. L. HAIGH
DEPUTY COMMISSIONER

WLH:mp

5-11-82

Based upon the foregoing findings of fact and conclusions of law, the undersigned makes the following

AWARD

1. Subject to counsel fees hereinafter allowed, defendant shall pay to plaintiff compensation, in a lump sum without commutation, for the period from 10-26-79 to 12-3-81 at the rate of $171.68 per week, less a credit in the amount of $6,000.00. Subject to counsel fee hereinafter allowed, defendant shall continue to pay to plaintiff compensation at the rate of $171.68 per week so long as he remains so disabled and has neither reached maximum medical improvement or has not been offered a job which is suitable to his capacity.

2. Counsel fee in the amount of $500.00 is hereby approved for plaintiff's current attorney, Mr. Wesley F. Talmas, Jr. and such amount shall be deducted from the accrued compensation due plaintiff and shall be paid directly to said attorney. In addition, a counsel fee in the amount of $2,500.00 is hereby approved for plaintiff's former attorney, Mr. Lawrence Smith and such amount shall be deducted from compensations due plaintiff and paid directly to said attorney.

3. Defendant shall pay all medical expenses incurred as a result of the injury giving rise hereto when bills for the same have been submitted through defendant to the Industrial Commission and approved by said Commission.

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WNC ARTHRITIS CLINIC, P.A.
203-A DOCTORS BUILDING
ASHEVILLE, NORTH CAROLINA 28801

TELEPHONE 704/258-9533

Med. File

WILLIAM F. WILSON, MD

DIPLOMATE:
AMERICAN BOARD OF RHEUMATOLOGY
AMERICAN BOARD OF INTERNAL MEDICINE

June 29, 1981

Louis Waller, M.D.
1425 Patton Avenue
Asheville, North Carolina 28806

RE: HARTMAN KUYKENDALL

Dear Lou:

Hartman Kuykendall returned to the office today for follow up evaluation. He was last seen on October 9, and has remained on the Clinoril which you had given him.

Hartman had been evaluated at Bowman Gray where they felt he had some degenerative arthritis as well as a psychosomatic problem. In view of the chronic nature of his symptoms and the results of the studies which we have seen previously, I feel that he has a significant problem at this time which is not psychosomatic.

The positive HLA-B27, morning stiffness, proximal girdle arthralgias and myalgias, the partial response to the Clinoril and the elevated IGM all would point to an inflammatory disorder which is causing this.

I feel Mr. Kuykendall indeed has the symptoms which he describes and that they are secondary to a chronic inflammatory problem. He is to remain on the Clinoril and I have added Zomax 100 mg every four hours as necessary with food. In several other people who have had this disorder, I found Zomax to be more effective than the other medications.

I do not feel that Mr. Kuykendall is able to work at this time and from his apparent response to other treatment, I do not anticipate that he will able to return to work for the next twelve months. I feel he should be found disabled at this time.

I will see Mr. Kuykendall again in one month and we will adjust his medications at that time. If I can be of further assistance, please let me know.

Sincerely,

William F. Wilson, M.D.

WFW/rj

ASTON PARK ORTHOPAEDICS, P.A.
53 SOUTH FRENCH BROAD — SUITE 43
ASHEVILLE, N. C. 28801
TELEPHONE (704) 252-7180

DAVID L. JARRETT, M.D., P.A.
DIPLOMATE OF
AMERICAN BOARD OF ORTHOPAEDIC SURGERY

LARRY L. KROLL, M.D., P.A.
DIPLOMATE OF
AMERICAN BOARD OF ORTHOPAEDIC SURGERY

3-25-82

Mr. Wesley Talman
Attorney at Law
Suite 508, Northwestern Bank Building
Asheville, N.C.

Dear Mr. Talman:

This concerns Mr. Hartman Kuykendall. A copy of my dictation from November 16, 1979 and a copy of the dictation of Dr. William Wilson from November, 1979 is included. As you can see from this dictation this man was involved in an automobile accident in August, 1969. In that accident he received an injury to his neck which ultimately resulted in hospitalization at Duke, along with a myelogram. Reportedly he had also been hospitalized by Dr. McKeel at Memorial Mission Hospital, and had another myelogram done. The patient has had pain in his back off and on since that injury.

It is my impression that his original problem with his neck started at the time of the accident in 1969.

If I can be of further assistance to you, please let me know.

Sincerely,

David L. Jarrett, M.D.

cc: Louis Waller, M.D.
cc: Mr. Hartman Kuykendall

2. The employer-employee relationship existed between plaintiff and defendant-employer.

3. Defendant was self-insured.

4. At the time of the alleged injury by accident the plaintiff's average weekly wage was $257.50.

5. In addition, the parties stipulated that plaintiff's injury on July 20, 1979, was in the course of his employment, that he is under the care of Drs. Waller and Wilson, that notice was given, and that the only issue for determination at this time is that of compensability.

* * * * * * *

Based upon the stipulations of the parties and the competent evidence adduced at the hearing, the undersigned rules the following

FINDINGS OF FACT

1. As of July 1979, plaintiff had worked for defendant 19 years in its police department. Since about April 1977 he had been in charge of building maintenance and by at least July 1979, he was in charge of vehicle and building maintenance.

2. On July 20, 1979, Captain Beaver requested plaintiff to tear out a counter and in response thereto, plaintiff and another

NORTH CAROLINA INDUSTRIAL COMMISSION

DOCKET H-5509

HARTMAN RUKENDALL,	Employee,) Plaintiff,)	OPINION AND AWARD
-vs-	)	BY
CITY OF ASHEVILLE, (Self-Insured)	Employer,) Defendant.)	WM. L. HAIGH DEPUTY COMMISSIONER

FILED: DEC 2 1980

This matter was heard before the undersigned in Asheville, North Carolina, on November 7, 1980.

APPEARANCES

Plaintiff: J. Lawrence Smith, Attorney, Asheville.

Defendant: Richard Daniels, Attorney, Asheville.

* * * * * * *

The undersigned finds as facts and concludes as matters of law the following, which were entered at the hearing as

STIPULATIONS

1. On the date of the alleged injury by accident, the parties were subject to and bound by the provisions of the Workers' Compensation Act.

CONTENT

If the parties are unable to agree upon the compensation to which plaintiff is entitled as a result of the injury giving rise hereto, then hearing thereon may be requested.

* * * * * * *

Based upon the foregoing findings of fact and conclusion of law, the undersigned enters the following

AWARD

1. Plaintiff is entitled to the benefits of the Workers' Compensation Act.

2. Defendant shall pay all medical expenses incurred by the plaintiff as a result of said injury when bills for the same are submitted through the carrier for approval by the Industrial Commission.

3. Defendant shall pay the costs.

IT IS HEREBY ORDERED that this case be REMOVED from the Asheville docket.

William L. Pfeiffer

WM. L. PFEIFFER
DEPUTY COMMISSIONER

WLP/sbc
12-1-80

employee under his supervision went to do so.

3. Said counter was about six to seven feet long, had 1/4-inch plywood sides and a formica top, all housed around 2 x 4 inch framing nailed with approximately six inch long nails rather than with the usual length nails of about 3 1/2 inches. After plaintiff and the co-employee had removed the sides and top and moved them out, plaintiff took hold of the framing and jerked it, whereupon he twisted his back and experienced back pain with a sensation of something coming loose in his back between his shoulders. Said framing had not come apart as easily as he thought it would.

4. Plaintiff sustained, as above described, an injury by accident arising out of and in the course of his employment on July 20, 1979.

The above findings of fact and conclusions of law engender the following

CONCLUSIONS OF LAW

1. Plaintiff sustained an injury by accident arising out of and in the course of his employment on July 20, 1979. G.S. 97-2(6).

* * * * * * *

HARTMAN KUYKENDALL

Asheville, NC 28801

MAY 2 8 1980

2/12/80 HLA-B27 is positive. I feel the arthralgias and myalgias he is having is secondary to this. Indocin caused headaches and he is getting only partial relief from Clinoril. He changed to Naproxen 2 each am and 2 each pm #40, R5, and if this is not effective will then use a different nonsteroidal. Will return in three weeks. WFW/rj

cc: Dr. Waller

2/25/80 - Pt. now taking 1/2 Gm and keeping drink down / fg.

3/4/80 No [illegible]

3-11-80 Continues with arthralgias and myalgias and is not responding to any nonsteroidal medications. He feels he is unable to work at the present time because of the pain. Will begin a swimming program in an attempt to improve the muscles. He will swim three to five times each week with a gradual increase in the amount of distance. I will see him in one month and he will be discussing with the Police Department his future. He will continue on Clinoril that Dr. Waller gave him. Return in one month. WFW/rj

cc: Dr. Waller

4 1 80 - Some response to ~~Dr~~ Clinoril Still [illegible] arthralgia & myalgia. Try Prednisone 40 x 2, 30 x 3, 20 x 2 does response. Emi no

5/7/80 Did not respond to Prednisone. I would expect an inflammatory disorder to respond to either Cortisone, ACTH or multiple anti-inflammatory agents that have been used. Certainly he has a HLA-B27 and [illegible] arthralgias and myalgias, however, I am not sure at the present time if these are completely related. Any work causes pain but this is not the soreness which would normally expect. No objective findings have been noted. He does relate that Quinine helpes, so I have asked him to take one each morning and 1 each evening. If this does not help then we will make other changes. WFW/rj

cc: Dr. Waller

LOUIS C. WALLER, M. D.
DIPLOMATE AMERICAN BOARD OF FAMILY PRACTICE
1425 PATTON AVENUE
ASHEVILLE, N. C. 28806

[redacted]ovember 17, 1980

RE: Hartman R. KUYKENDALL

To Whom It May Concern:

I first saw Mr. Kuykendall on August 31, 1979, at which time he was complaining of pain in both hips and in the lumbar spine area with tenderness. He gave a history of bending over and pushing a cabinet while he was tiling a floor. He was treated with traction treatments, muscle relaxants, and anti-inflammatory agents.

In the next few days he developed pain and spasm in his trapezius and posterior cervical muscles. This pain and spasm continued in spite of prolonged conservative treatment.

He was seen in consultation by Dr. Weiss, a neurosurgeon, on October 04, 1979. His diagnosis was chronic cervical and lumbosacral strain.

He was seen on November 30, 1979, by Dr. William Wilson. His diagnosis was chronic [redacted]ervical and lumbosacral strain; HLA-B27 positive fasciomyositis and tenosynovitis [redacted]ith traumatic aggravation; Hyper-Immunoglobulin-M.

His pain and spasm have continued to this date. When last seen on November 14, 1980, he had acute pain in his neck on rotation to the right and left with limitation of thirty degree range of motion. At that time he also had acute spasm of the left rhomboideus muscle. Results of a cervical spine x-ray done on this date revealed a narrowing of the left 4-5 neuronal foramina. This results in acute nerve root pain down the left side of his neck and upper back.

In conclusion he has this continuing acute cervical and lumbosacral strain; HLA-B27 positive fasciomyositis and tenosynovitis with traumatic aggravation from his initial injury on July 20, 1979.

LWaller M. D.

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LAW OFFICES OF
SHUFORD AND JARVIS
606 NORTHWESTERN BANK BUILDING
ASHEVILLE, NORTH CAROLINA 28801

BILL SHUFORD, JR
SCOTT E. JARVIS

704 258 1234

APR - 4 1985
CITY CLERK

April 3, 1985

RECEIVED JUN 2 5 1985

William F. Wolcott
Associate City Manager/City Clerk
City Manager's Office
P.O. Box 7148
Asheville, N.C. 28807

Re: Hartmon R. Kuykendall vs. Asheville Policemen's Pension and Disability Fund (City of Asheville)

Dear Mr. Wolcott:

The decision of the Board of Trustees of the Asheville Policemen's Pension and Disability Fund, dated February 21, 1985, has just been received by our office. Scott E. Jarvis, Esq., represents Mr. Kuykendall. Because of a serious illness, Mr. Jarvis is currently absent from the office.

Mr. Kuykendall does not agree with the decision of the Board of Trustees of the Asheville Policemen's Pension and Disability Fund. He intends to contest that decision. Please consider this our formal notice of appeal of the February 21, 1985 decision. We understand the appeal will be heard by the Asheville City Council.

At your earliest convenience, please let us know what, if any, materials you need from the office. Also, we would like an explanation as to the steps and procedures involved in the appeal process.

We would respectfully request that the hearing of this appeal be deferred to and until Mr. Jarvis's return to the office, after his surgery and recuperation. Mr. Jarvis will undergo surgery on April 5, 1985, and we expect him to return to the office approximately three weeks after said date.

Resectfully,

Bill Shuford, Jr.

BS/as

cc H.R. Kuykendall

STATE OF NORTH CAROLINA

COUNTY OF BUNCOMBE

AFFIDAVIT

The undersigned, after being first duly sworn, according to law, deposes and says as follows:

1. My name is James Calvin Hadden and I have been with the Asheville Police Department as a janitor and vehicle maintenance man for seventeen (17) years.

2. On July 20, 1979, H. R. Kuykendall and I were putting down tile in the Detective Office and under the instructions of Captain Beaver, Gladys McDaniels and Sally Stoker.

3. We were trying to move a counter about eight foot long. We were in the process of tearing the counter out and had gotten the sides off of it and this left the frame which was made of two by fours. Mr. Kuykendall was trying to move the counter and pulled at it, but it did not budge because it had been nailed down with nails that were approximately six to eight inches long. He hurt his back and immediately complained about it, and he told me that he had hurt his back when he reached to move the counter and it would not budge because of having been nailed down.

4. The accident happened on Friday and Mr. Kuykendall complained the rest of the day about his back. He was hardly able to do anything more after trying to move the counter. He was humped over and when he came back on Monday, he was all humped over and unable to work and still complaining about his back. He tried to work but was just unable and was in a great deal of pain.

5. Mr. Kuykendall had not complained about his back before the accident [illegible] the counter.

FURTHER, AFFIANT SAITH NAUGHT.

THIS 9th DAY OF APRIL, 1980.

James Calvin Hadden
JAMES CALVIN HADDEN

SWORN TO AND SUBSCRIBED TO BEFORE ME THIS 9TH DAY OF APRIL, 1980.

My Comm. Expires:
March 8, 1982

Nancy James Lefler
NOTARY PUBLIC

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LAW OFFICES OF
SHUFORD AND JARVIS
606 NORTHWESTERN BANK BUILDING
ASHEVILLE, NORTH CAROLINA 28801

BILL SHUFORD, JR.
SCOTT E. JARVIS

704-258-1234

June 11, 1985

William F. Slawter, Esq.
Attorney at Law
P.O. Box 7661
Asheville, N.C. 28807

Re: H.R. Kuykendall vs. City of Asheville

Dear Bill:

On February 18, 1985, Mr. Kuykendall had a hearing before the Board of Trustees of the Policemen's Pension Fund. His application for pension was denied by that Board. Upon receipt by certified mail of a copy of the Board's decision, a notice was sent appealing the decision to the City Commission.

We have since been unable to learn when the matter will be considered by the City Commission. Would you please advise as to what we can do to get the matter heard by the Commission.

Also, if you would care to do so, I would be glad to open my entire file concerning Mr. Kuykendall for your inspection. I really feel that Mr. Kuykendall has a valid claim and I will be glad to cooperate with you or your staff in any possible way.

Thank you for looking into this matter and for your assistance on it.

Sincerely,

Scott E. Jarvis

SEJ/as

cc H.R Kuykendall

RECEIVED JUN 2 5 1985

MEMORANDUM TO: Lla Leet Hudson, Fringe Benefit Coordinator

FROM: Bill Slawter, City Attorney

DATE: June 21, 1985

Attached is a copy of the letter I have just received from Scott Jarvis regarding H.R. Kuykendalls' appeal to City Council from the decision from the Police Pension Board. Mr. Jarvis has now apparently recuperated from his illness and is ready to have this matter heard before the City Council. This matter probably needs to be discussed during a pre-council session so that City Council can be advised of the matter and given a packet of available materials concerning the action. They could then determine the date on which they would want to hear the matter. I believe this is the procedure that was followed in Walsh hearing rather than arbitrarily setting a date which might not be convenient for Council since a hearing of this nature would ordinarily take a good bit longer than routine council actions.

BS:kk

cc: Neal Creighton, City Manager

BLUE RIDGE ORTHOPAEDIC CLINIC, P.A.
120 [redacted] STREET
ASHEVILLE, NORTH CAROLINA 28801
TELEPHONE (704) 258-8800

DAVID L. CAPPIELLO, M.D.
DAVID O. LINCOLN, M.D.
JAMES E. WEILBAECHER, JR., M.D.

DIPLOMATES
AMERICAN BOARD OF ORTHOPAEDIC SURG[redacted]
FELLOWS
AMERICAN ACADEMY OF ORTHOPAEDIC SURGERY

March 30, 1981

Mr. Richard S. Daniels
Attorney at Law
Post Office Box 7625
Asheville, North Carolina 28807

Re: Hartman Rankin Kuykendall
employer - City of Asheville
d/a: July 20, 1979

Dear Mr. Daniels:

Pursuant to your instructions, Mr. H. R. Kuykendall was seen and evaluated by me in my office this morning.

As you well know, he is a forty-nine year old employee of the City of Asheville who allegedly was asymptomatic until on or about July 20, 1979 when he injured his neck and upper back while jerking some 2 X 4's. He felt some pain in his upper back shortly after performing the above maneuver and continued to work. He then laid some tile later that same day and began experiencing increasing pain in his upper back and neck. He denied any radiating pain into either upper extremity and also denied any injury to either upper extremity at that time. In 1969 he injured his neck and was treated for an acute cervical strain at that time. He feels that the recent injury is an aggravation of his old injury.

He failed to improve on conservative measures as an outpatient so he was admitted to Memorial Mission Hospital for approximately two months under the care of Doctor Waller. X-rays of the cervical spine along with x-rays of his thoracic and lumbo-sacral spines were taken while in the hospital and they were read as normal. A pan myelogram was also performed and this was read as normal and a bone scan was read as normal. He was seen in consultation by Doctor Jarrett, an orthopaedist, and Doctor Weiss, a neurosurgeon. Other than an intensive course of physical therapy, nothing else was done on this man while in the hospital. He has not yet returned to work and continues to see Doctor Waller frequently for physical therapy treatments as an outpatient.

At the present time he is complaining of discomfort in his neck and upper back along with some radiation into the left upper extremity. He experiences a great deal of weakness in the left upper extremity but, as mentioned above, he does not feel that he injured his left shoulder in the accident.

Physical examination reveals a healthy adult male who appears to be in no distress. He holds his neck in a normal posture but demonstrates a very limited range of

Continued

FEBRUARY 21, 1985

MR. SCOTT F. JARVIS
ATTORNEY AT LAW
P.O. BOX 7533
ASHEVILLE, NORTH CAROLINA 28807

RE: HARTMAN R. KUYKENDALL

DEAR MR. JARVIS:

I AM WRITING TO ADVISE YOU OF THE DECISION OF THE BOARD OF TRUSTEES OF THE ASHEVILLE POLICEMEN'S PENSION AND DISABILITY FUND REGARDING MR. KUYKENDALL'S REQUEST FOR DISABILITY RETIREMENT IN THE LINE OF DUTY.

AFTER CONSIDERATION AND REVIEW OF ALL EVIDENCE SUBMITTED, IT WAS THE DECISION OF THE BOARD OF TRUSTEES (AT THE FEBRUARY 18, 1985 MEETING) TO ACCEPT THE RECOMMENDATION OF THE BOARD OF EXAMINERS AND TO DENY THE REQUEST FOR DISABILITY RETIREMENT IN THE LINE OF DUTY.

UNDER THE PROVISIONS OF CHAPTER 429 OF THE 1979 SESSION LAWS OF THE NORTH CAROLINA GENERAL ASSEMBLY, MR. KUYKENDALL HAS TEN (10) DAYS FROM RECEIPT OF THIS LETTER TO APPEAL THE DECISION TO THE ASHEVILLE CITY COUNCIL; SUCH APPEAL TO BE MADE THROUGH THE CITY CLERK OF THE CITY OF ASHEVILLE.

IF YOU HAVE ANY QUESTIONS REGARDING THIS MATTER, PLEASE LET ME KNOW.

VERY TRULY YOURS,

Lla Leet L. Hudson

LLA LEET L. HUDSON
FRINGE BENEFITS ADMINISTRATOR

LLH:S

November 17, 1981

Mr. J. Lawrence Smith
Attorney and Counsellor at Law
Suite 200
Gennett Building
29 North Market Street
Asheville, North Carolina 28801

Re: Hartman R. Kuykendall

Dear Mr. Smith:

I am writing to advise you of action taken by the Board of Examiners of the Asheville Policemen's Pension and Disability Fund at their meeting held on Monday, November 16, 1981.

As you recall, at the March 16, 1981 meeting, Mr. Kuykendall was instructed to submit affidavits from (1) himself regarding a statement contained in Dr. David L. Jarrett's medical report as to how/where alleged injury to back occurred; and (2) Dr. Jarrett regarding same. To date, only the affidavit from Mr. Kuykendall has been received. Questions were raised as to the status of Mr. Kuykendall's request for disability retirement, and the Board then instructed me to advise you that Mr. Kuykendall be required to furnish the requested information and to appear before the Board at its December 21, 1981 meeting.

If you have any questions regarding the above matter, please advise me accordingly.

Very truly yours,

Lla Leet L. Hudson
Fringe Benefits Administrator

LLH:s

motion of his neck in all planes. This appears to be a voluntary restriction of motion. There is no definite palpable paravertebral muscle spasm but he admits to diffuse tenderness over the cervical spine posteriorly. There is also diffuse tenderness in the thoracic and lumbar areas but there is no definite palpable paravertebral muscle spasm. There is tenderness to deep palpation in the subacromial region of the left shoulder and there is weakness to abduction of the left shoulder. His deep tendon reflexes are normal and equal and there is no motor or sensory deficit in either upper extremity.

X-rays of his cervical spine taken in the office today reveal no disc space narrowing and no arthritic changes. His vertebral bodies and posterior elements are well preserved and the intervertebral foramina are well preserved. X-rays of his thoracic spine reveal no evidence of fracture or dislocation and there are no significant arthritic changes in his thoracic spine.

I feel that this man sustained cervical and thoracic muscle strain in the accident at work and I am extremely surprised that he has not recovered completely from this and is not back to full employment. He may well have injured his left shoulder in the accident but, as stated above, he denied any complaints of pain in the left shoulder at the time of the injury. This man may well have a tear of the rotator cuff of his left shoulder which is aggravating his neck and back. Of course, this possible tear of the rotator cuff does not have to be traumatic in origin. If you would like me to pursue this problem further with a shoulder arthrogram, I will be most happy to do so.

As far as his neck and back are concerned, I feel that he has now reached the point of maximum improvement from treatment and recommend no further treatment. I feel that he can safely return to work immediately without injuring himself further, and I feel that he can be safely discharged from treatment with no (0%) disability as a result of the injuries to his neck and upper back.

If I can be of any further assistance to you in this matter or perhaps answer any further questions more specifically, please do not hesitate to call on me.

Sincerely yours,

David L. Cappiello, M.D.

DLC:jas

attachment (form 25)

DR. WALLER FURTHER ADVISED THAT ONE OF THE TESTS WAS A GAMMA GLOBULIN WHICH RESULTED IN POSITIVE READING FOR THE HLA-B27 SYMDROME; THAT THIS SYNDROME IS ASSOCIATED WITH RHUEMATOID ARTHRITIS; IS A MUSCLE INFLAMMATORY CONDITION; THAT STRESS/ACUTE TRAUMA CAN PRECIPITATE CONDITION; DR. WALLER STATED " THAT HE WAS NOT SAYING THAT KUYKENDALL WOULD NOT HAVE HAD CONDITION IF INJURIES HAD NOT OCCURRED; IT WAS HIS OPINION THAT THE INJURIES PRECIPITATED THE CONDITION EARLIER" .

IN THE DISCUSSION THAT FOLLOWED, IT WAS DETERMINED THAT THE DISEASE IS AN INFLAMMATORY TYPE DISEASE; THAT ANYONE COULD COME DOWN WITH SAME; THE ACCIDENT DID NOT CAUSE THE DISEASE, BUT PRECIPITATED THE DISEASE. MR. FRUE QUESTIONED THE DIFFERENCE BETWEEN PRECIPITATING AND CAUSING. DR. WALLER'S ANSWER WAS THAT STRESS OF INJURY MAY CAUSE IT TO SHOW UP WHEREAS IT MAY NOT SHOW UP UNTIL YEARS LATER; THAT THE AGGRAVATION OF INJURY CHANGED THE DISEASE FROM A SUB-CLINICAL TO A CLINICAL STATE. IT WAS FURTHER DETERMINED/STATED THAT THE CONDITION IS NOT ORTHOPAEDIC.

IN CLOSING, DR. WALLER STATED THAT IT WAS HIS OPINION THAT KUYKENDALL IS DISABLED TO PERFORM ANY WORK.

AT THIS TIME THE BOARD RECESSED AND WENT INTO EXECUTIVE SESSION.

UPON RETURNING TO OPEN SESSION, MOTION WAS MADE BY MR. FOWLER, SECONDED BY MS. FRANK, AND UNANIMOUSLY APPROVED THAT THE BOARD OF TRUSTEES ACCEPT/AFFIRM THE RECOMMENDATION OF THE BOARD OF EXAMINERS AND THAT THE REQUEST FOR DISABILITY RETIREMENT IN THE LINE OF DUTY BE DENIED. MR. KUYKENDALL WAS ADVISED OF HIS RIGHT TO APPEAL TO THE CITY COUNCIL.

WILLIAM H. COSTELLO: CONSIDERATION OF REQUEST FOR DEFERRED RETIREMENT BENEFIT.

MRS. HUDSON ADVISED THE BOARD THAT WILLIAM H. COSTELLO HAD RESIGNED FROM THE ASHEVILLE POLICE DEPARTMENT BUT HAD MET THE REQUIREMENTS TO LEAVE HIS CONTRIBUTIONS IN THE PENSION FUND AND RECEIVE BENEFITS WHEN HE REACHED RETIREMENT AGE. (DATE OF EMPLOYMENT: MAY 18, 1957.) THE BOARD ACCEPTED THIS AS INFORMATION.

OTHER BUSINESS:

MRS. HUDSON ADVISED THE BOARD THAT SHE HAD BEEN INFORMED BY MARY ANN MORRIS, ACCOUNTING DIVISION, OF SERVICE CHARGES TO BE INCURRED ON MONIES/FUNDS PRESENTLY BEING HANDLED BY THE BANK.

AFTER DISCUSSION, MRS. HUDSON WAS INSTRUCTED TO ADVISE MS. MORRIS TO MAKE INQUIRIES OF ALL BANKING INSTUTIONS IN THIS AREA REGARDING ANY CHARGES ON MONIES, REASON FOR CHARGES, AND MAKE REPORT TO MRS. HUDSON; UPON RECEIPT OF INFORMATION, MRS. HUDSON IS TO MAKE TELEPHONE SURVEY OF BOARD MEMBERS REGARDING SAME.

ASHEVILLE POLICEMEN'S
PENSION AND DISABILITY FUND

THE REGULAR MONTHLY MEETING OF THE BOARD OF TRUSTEES OF THE ASHEVILLE POLICEMEN'S PENSION AND DISABILITY FUND WAS HELD ON MONDAY, FEBRUARY 18, 1985 AT 10:00 A.M. IN THE COUNCIL CHAMBERS OF THE CITY HALL BUILDING. PRESENT WERE: WILLIAM C. FRUE, JR., CHAIRMAN; MARY LLOYD FRANK; PORTER V. FOWLER, JR.; PATSY BRISON, LEGAL COUNSEL FOR THE BOARD; AND LLA LEET L. HUDSON, FRINGE BENEFITS ADMINISTRATOR.

ALSO PRESENT: HARTMAN R. KUYKENDALL, CLAIMANT; SCOTT JARVIS, LEGAL COUNSEL FOR THE CLAIMANT; LOUIS C. WALLER, M.D.; AND JOHN P. MIALL, JR., EMPLOYEE SERVICES DIVISION HEAD.

THE MEETING WAS CALLED TO ORDER AND A QUORUM WAS PRESENT.

HARTMAN R. KUYKENDALL: CONSIDERATION OF RECOMMENDATION OF BOARD OF EXAMINERS REGARDING REQUEST FOR DISABILITY RETIREMENT IN THE LINE OF DUTY.

MR. JARVIS ADVISED THE BOARD OF THE FOLLOWING: THAT KUYKENDALL'S PROBLEM STARTED IN 1969 WHEN, WHILE DIRECTING TRAFFIC (AFTER AN ACCIDENT ON TUNNEL ROAD), KUYKENDALL WAS HIT BY AN AUTOMOBILE AND THROWN INTO THE AIR, INJURING HIS BACK; AFTER PERIOD OF RECUPERATION, HE RETURNED TO WORK; IN 1979, AFTER HAVING BEEN CLASSIFIED AS A MAINTENANCE SUPERVISOR, KUYKENDALL WAS ASSIGNED TO REMOVE SOME COUNTERS IN THE DETECTIVE OFFICE; WHILE DOING SO, HE INJURED HIS BACK AND COMPLAINED OF PAIN IN NECK, SHOULDERS, BACK; KUYKENDALL HAS BEEN EVALUATED BY NUMEROUS SPECIALISTS, INCLUDING BOWMAN-GRAY, DUKE; IN THE COURSE OF SUCH EVALUATIONS, RHEUMATOLOGISTS DETERMINED THAT KUYKENDALL HAD HLA-B27 SYNDROME WHICH IS A CHRONICALLY INFLAMMED MUSCLE CONDITION; THAT SUCH WAS A RESULT OF THE 1979 ACCIDENT.

HE FURTHER ADVISED THAT A WORKER'S COMPENSATION CLAIM HAD BEEN FILED; WORKER'S COMPENSATION HAD FOUND IN KUYKENDALL'S FAVOR; THE CITY HAD APPEALED THE DECISION, BUT SUBSEQUENTLY SETTLED WITH KUYKENDALL. HE STATED THAT THIS WAS A REAL CONDITION PROVED BY BOTH OBJECTIVE AND SUBJECTIVE FINDINGS-LABORATORY, X-RAYS, ETC; KUYKENDALL IS DISABLED AND SUCH DISABILITY HAD IMMEDIATE ORIGIN IN 1979 WHILE EMPLOYED/WORKING FOR THE CITY OF ASHEVILLE.

DR. WALLER TESTIFIED TO THE FOLLOWING: THAT HIS FIRST CONTACT WITH KUYKENDALL WAS ON JUNE 28, 1971, FOR TREATMENT OF MUSCLE SPASMS/PAIN IN THE NECK; TREATED KUYKENDALL IN 1973 FOR BROKEN WRIST FROM WHICH HE RECOVERED; 1974 FOR CHEST DISCOMFORT; 1976 FOR PHYSICAL EXAMINATION - GENERAL HEALTH WAS GOOD AT THAT TIME; 1978 FOR PAIN IN WALL MUSCLES; FEBRUARY, 1979, SHOVELING SNOW RESULTED IN NECK PAIN AND SPASMS; ON 08/31/79 FOR DEVELOPING PAIN IN NECK (AS RESULT OF INJURY ON 07/20/79); KUYKENDALL CONTINUED TO HAVE PAIN IN NECK, SHOULDER, BACK, AND MUSCLES; DID NOT RESPOND TO TREATMENT/MEDICATIONS; ADMITTED TO HOSPITAL IN OCTOBER, 1979 AND WHILE THERE, WAS TREATED/TESTED BY DR. JARRETT.

ASHEVILLE POLICEMEN'S
PENSION AND DISABILITY FUND

THE REGULAR MONTHLY MEETING OF THE BOARD OF EXAMINERS AND THE BOARD OF TRUSTEES OF THE ASHEVILLE POLICEMEN'S PENSION AND DISABILITY FUND WAS HELD ON MONDAY, NOVEMBER 26, 1984 AT 10:00 A.M. IN THE COUNCIL CHAMBERS OF THE CITY HALL BUILDING. PRESENT WERE: MAYOR LARRY S. MCDEVITT, CHAIRMAN OF THE BOARD OF EXAMINERS; JOHN A. HENDERSON, M.D.; JAMES H. PARRIS, JR.; NEAL CREIGHTON, CITY MANAGER; PATSY BRISON, LEGAL COUNSEL FOR THE BOARDS; AND LLA LEET L. HUDSON, FRINGE BENEFITS ADMINISTRATOR.

ALSO PRESENT: SCOTT JARVIS, ATTORNEY AT LAW; HARTMAN R. KUYKENDALL, CLAIMANT; AND JOHN P. MIALL, JR., EMPLOYEE SERVICES DIVISION HEAD.

ABSENT: RONALD CHANDLER, MEMBER OF BOARD OF EXAMINERS; WILLIAM C. FRUE, JR., CHAIRMAN OF THE BOARD OF TRUSTEES; MARY LLOYD FRANK, TRUSTEE; AND PORTER V. FOWLER, JR., TRUSTEE.

THE MINUTES OF THE PREVIOUS MEETING WERE APPROVED AS WRITTEN.

HARTMAN R. KUYKENDALL: RE-CONSIDERATION OF REQUEST FOR DISABILITY RETIREMENT IN THE LINE OF DUTY.

MRS. HUDSON ADVISED THE BOARD THAT THE REQUEST FOR DISABILITY RETIREMENT IN THE LINE OF DUTY HAD PREVIOUSLY BEEN DENIED; HOWEVER, UPON REQUEST FROM THE ATTORNEY, SCOTT JARVIS, WHO IS NOW REPRESENTING MR. KUYKENDALL, SUCH REQUEST WAS SCHEDULED FOR RE-CONSIDERATION IN ORDER THAT CLAIMANT AND HIS ATTORNEY MIGHT PRESENT ADDITIONAL MEDICAL EVIDENCE/TESTIMONY.

AFTER DISCUSSION AS TO THE LEGALITY OF SUCH RE-CONSIDERATION, IT WAS THE DETERMINATION OF THE BOARD THAT HEARING WOULD PROCEED WITH ONLY NEW EVIDENCE/TESTIMONY BEING PRESENTED. (THE BOARD HAD PREVIOUSLY BEEN FURNISHED WITH COPIES OF MINUTES PERTINENT TO TESTIMONY HEARD AT PRIOR MEETINGS.)

MR. JARVIS GAVE A BRIEF HISTORY OF CASE STATING THAT MR. KUYKENDALL HAD BEEN EMPLOYED BY THE ASHEVILLE POLICE DEPARTMENT IN 1966; WAS INJURED IN 1969 WHILE DIRECTING TRAFFIC AT AN ACCIDENT; HAD SUBSEQUENTLY RETURNED TO WORK; WHILE IN EMPLOYMENT OF POLICE DEPARTMENT, HAD BEEN ASSIGNED TO VARIOUS DUTIES - DISPATCHER, JAILER, ETC.; THAT REQUEST FOR DISABILITY RETIREMENT WAS BASED ON INJURY TO BACK WHILE REMOVING A CABINET IN THE DETECTIVE OFFICE; PRESENTLY ON LEAVE WITHOUT PAY (BEGINNING NOVEMBER, 1980); MATTER HAD BEEN REPORTED TO NORTH CAROLINA INDUSTRIAL COMMISSION; ON DECEMBER 02, 1980, INDUSTRIAL COMMISSION MADE A FINDING IN MR. KUYKENDALL'S BEHALF. MR. JARVIS PRESENTED SEVERAL MEDICAL REPORTS TO THE BOARD, COPIES OF WHICH ARE ATTACHED AND MADE A PART OF THESE MINUTES.

THERE BEING NO FURTHER BUSINESS, THE MEETING WAS UPON MOTION ADJOURNED.

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SECRETARY

CHAIRMAN
BOARD OF TRUSTEES

ASHEVILLE POLICEMEN'S
PENSION AND DISABILITY FUND

The Board of Examiners and the Board of Trustees of the Asheville Policemen's Pension and Disability Fund met in regular session on Monday, December 21, 1981, at 10:00 A.M. in the Council Chambers of the City Hall Building. Present were: Mayor Roy M. Trantham, Chairman of the Board of Examiners; John A. Henderson, M.D.; John M. Biggs; James H. Parris, Jr.; Kenneth M. Michalove, City Manager; William C. Frue, Jr., Chairman of the Board of Trustees; Mary Lloyd Frank, Trustee; Robert J. Robinson, Counsel for the Boards; and Lla Leet L. Hudson, Fringe Benefits Administrator.

Also present: Hartman R. Kuykendall; J. Lawrence Smith, Counsel for H. R. Kuykendall; W. Michael Smith, Director of Administration; Rick Daniels, Attorney at Law; Fred W. Hensley, Chief of Asheville Police Department; and John P. Miall, Jr., Administrative Supervisor of Employee Safety/Development Division of Employee Services Department.

Absent: Walter L. Dillingham, Trustee.

The minutes of the November 16, 1981 meeting were approved as written.

HARTMAN R. KUYKENDALL: FURTHER CONSIDERATION OF REQUEST FOR DISABILITY RETIREMENT IN THE LINE OF DUTY.

Further consideration was given to Hartman R. Kuykendall's request for disability retirement in the line of duty.

At a previous meeting, the Boards had instructed Mr. Kuykendall to submit affidavits from himself and from Dr. Jarrett regarding where alleged injury to back had occurred. Mrs. Hudson informed the Boards that, to date, only an affidavit from Mr. Kuykendall had been received; nothing had been received from Dr. Jarrett

J. Lawrence Smith advised the Boards that a Worker's Compensation hearing had recently been held in regard to alleged back injury; that Mr. Kuykendall had been rated (by a Dr. Wilson) totally disabled due to the accident of 1979 and could no longer work as a police officer; that Dr. Louis Waller had rated Kuykendall at fifty percent (50%) permanent partial disability - having seen him numerous times since the 1979 incident; that Mr. Kuykendall had been out of work for two (2) years and that evidence is present that would sustain claim for disability.

MR. KUYKENDALL TESTIFIED (UNDER OATH) THAT HIS INJURY WAS A RESULT OF TRYING TO REMOVE A COUNTER IN THE DETECTIVE OFFICE; THAT HE WAS FIRST INJURED IN 1969, WHILE DIRECTING TRAFFIC AT AN ACCIDENT SITE; THAT AFTER 1969 INJURY, RETURNED TO WORK; DUTIES INCLUDED THAT OF DISPATCHER, JAILER, BACK ON LINE IN THE TRAFFIC DIVISION, AND FINALLY, WAS ASSIGNED TO DUTIES AS MOTOR VEHICLE/BUILDING MAINTENANCE COORDINATOR. HE DESCRIBED ACCIDENT STATING THAT HE AND JANITOR, JAMES C. HADDEN, WERE SENT DOWN TO DETECTIVE OFFICE TO MOVE COUNTER; REMOVED TOP AND SIDES OF COUNTER; WHEN TRIED TO MOVE FRAME, INJURY TO BACK OCCURRED; FRAME WAS LATER REMOVED BY USING CROWBAR (DUE TO LENGTH OF NAILS); THAT SINCE INJURY, COULD NOT SIT; RISE FROM CHAIR; HAS MUSCLE SPASMS; CANNOT MOVE LEFT ARM OVER HEAD; CANNOT SIT FOR ANY LENGTH OF TIME, BUT HAS TO KEEP MOVING; HE IS UNABLE TO WORK AT ALL; HAS PAIN ALL THE TIME AND IS MEDICATING ALL THE TIME; SEES PHYSICIAN FROM ONE (1) TO THREE (3) TIMES PER WEEK (SINCE 1979). HE AFTER QUESTIONING BY MEMBERS OF BOARD, IT WAS DETERMINED THAT/IS NOT PRESENTLY UNDER CARE OF ORTHOPAEDIC PHYSICIAN; ONLY SEEING LOUIS WALLER, M.D. (GENERAL PRACTIONER).

FURTHER EVIDENCE SHOWED THAT HE SUFFERS FROM HLAB27 SYMDROME; SUCH SYMDROME CAUSES ACHES/PAINS/ETC. IN BODY. HOWEVER, IT IS MR. KUY-KENDALL'S CONTENTION THAT ALLEGED ACCIDENT PRECIPITATED HIM INTO THE SYMDROME, AND FURTHER THAT AGGRAVATION OF CONDITION AROSE FROM THE ALLEGED INJURY.

FURTHER QUESTIONING REVEALED THAT CONDITION IS NOT ORTHOPAEDIC/NEURO-LOGICAL PROBLEM; IS AN INFLAMMATORY DISEASE; THAT TREATMENT RECEIVING WAS SET UP BY DR. WILSON AND IS BEING ADMINISTERED BY DR. WALLER.

AS TO REASON FOR INDUSTRIAL COMMISSION RULING IN FAVOR OF MR. KUYKENDALL, IT WAS DETERMINED THAT WHEN THE COMMISSION IS PRESENTED WITH CONFLICTING ACCOUNTS, THE COMMISSION MUST RULE IN THE WORKER'S (EMPLOYEE'S) FAVOR; THAT THE CITY ALSO FELT THAT TO PURSUE AN APPEAL WOULD RESULT IN THE SAME DECISION (DUE TO THE LAW) AND THUS, FOUND SETTLEMENT LESS COSTLY THAN LENGTHY COURT CASE.

AFTER DISCUSSION, MOTION WAS MADE BY DR. HENDERSON, SECONDED BY MR. PARRIS, AND UNANIMOUSLY APPROVED THAT THE REQUEST FOR DISABILITY RE-TIREMENT IN THE LINE OF DUTY BE DENIED.

MR. KUYKENDALL WAS ADVISED THAT NEW EVIDENCE HAD BEEN CONSIDERED; THAT TECHNICALLY, THE CASE WAS AND HAD BEEN BEFORE THE BOARD OF TRUSTEES; HOWEVER, IN FAIRNESS TO CLAIMANT, HAD AGREED TO HEAR ANY NEW EVIDENCE AND WOULD PASS SUCH EVIDENCE AND THEIR RECOMMENDATION TO THE BOARD OF TRUSTEES.

THERE BEING NO FURTHER BUSINESS, THE MEETING WAS UPON MOTION ADJOURNED.

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SECRETARY

CHAIRMAN
BOARD OF EXAMINERS

There being no further business by the Board of Examiners, the meeting was upon motion, adjourned.

ACTION BY BOARD OF TRUSTEES:

Mr. Frue advised Mr. Kuykendall and his Counsel, Mr. Smith, that the Board, having been seated during the meeting of the Board of Examiners and having heard discussion, had nothing further upon which to act; that the Board had Mr. Kuykendall's affidavit and a medical report from Dr. Cappiello.

Mr. Smith advised the Board that he wanted the three (3) depositions (from physicians) made a part of Mr. Kuykendall's medical report; however, he had been unable to obtain them, feeling that expense involved in getting them copied for his client was too expensive. He further stated that he would "insist" that the depositions be reviewed by all three (3) members of the Board of Trustees and that their decision should be predicated by a review of all evidence available.

Mr. Daniels advised the Board that he would be happy to provide copies of the depositions to the Board; however, he would remind the Board that such depositions were taken pertinent to a Worker's Compensation hearing and were therefore, taken in a different context, and he further admonished the Board to remember what disability was being discussed.

Mr. Smith advised the Board that he and his client felt that the requirement for an affidavit from Dr. Jarrett (regarding occurence of alleged injury) imposed a hardship upon them; however, if such were required, then an effort would be made to obtain the affidavit. He further advised the Board that a deposition was being taken from Dr. Cappiello (for Worker's Compensation purposes) and asked that the Board review same. This request came as a result of statement in letter from Dr. Cappiello which said that Mr. Kuykendall was zero percent (0%) disabled, which was pointed out to Mr. Smith by Mr. Frue.

After discussion, Mr. Frue advised Mr. Kuykendall and Mr. Smith that action on the matter would be deferred until depositions were made available for the Board's review.

Rick Daniels, City Attorney for Worker's Compensation, advised the Boards that according to depositions given for the hearing, Dr. Waller feels that Kuykendall is unable to perform any duties; the other two (2) physicians feel that Kuykendall could have held a desk job (performing light duty). Mr. Daniels cautioned the Boards to determine if disability were a result of Kuykendall's performance of duties as a police officer (due to conflicting comment found in Dr. Jarrett's report) and would advise the Boards to continue to request an affidavit from Dr. Jarrett regarding same. Mr. Daniels further advised the Boards that medical evidence (according to depositions) showed that Mr. Kuykendall was suffering from HLAB 27 Syndrome (found by blood tests); such Syndrome causes aches/pains in body; that Drs. Wilson and Waller feel alleged accident precipitated Kuykendall into Syndrome.

Dr. Henderson then questioned as to whether reports (of disability) were based on x-ray/laboratory findings or on statements of pain from Mr. Kuykendall.

Mr. Daniels advised that x-ray findings showed normal; that aches/pains were caused by spasms; that there were little (few) objective findings; and that disability was based on Mr. Kuykendall's reports of aches and pains.

Mr. Robinson referred to the hospital report (previously received by the Boards) and read, to the Boards, Dr. Jarrett's statement that accident occurred while laying tile at home. He advised the Boards that Mr. Kuykendall, in his affidavit, denied making such statement to the doctor; however, no affidavit had been received from Dr. Jarrett (rescinding statement in the report).

After discussion, in which Dr. Henderson stated that there was very little objective evidence submitted to support alleged injury, motion was made by Dr. Henderson, seconded by Mr. Biggs, and unanimously approved that further consideration for Mr. Kuykendall's request for disability retirement in the line of duty be denied.

There being no further business for the Board of Examiners, the meeting was upon motion adjourned.

WILLIAMSON B. ALLISON: FURTHER CONSIDERATION OF REQUEST FOR CHANGE OF RETIREMENT STATUS FROM NORMAL RETIREMENT TO DISABILITY RETIREMENT IN THE LINE OF DUTY.

At the previous meeting of the Board of Trustees, no action had been taken on the request in order that minutes of the July 9, 1979 meeting could be made available to them for review and also, the Board wanted to review medical evidence submitted.

Mr. Cole, Acting Chairman, requested that Mrs. Hudson read the minutes of the July 09, 1979 meeting; in the minutes, it was stated that due to lack of evidence that Mr. Allison had been denied a right to request for disability retirement in the line of duty, and upon recommendation from Mr. Robinson that the request be denied due to the Statute of Limitations and also, Mr. Allison had attained retirement age and had submitted an application for normal retirement benefits which were awarded by a prior Board, the Board of Examiners had denied the request.

After discussion, motion was made by Mr. Dillingham, seconded by Mr. Cole, and unanimously approved that the recommendation of the Board of Examiners be accepted and to deny the request for change in retirement status.

OTHER BUSINESS:

Several bills were presented to the Board for payment; these were approved.

There being no further business for the Board of Trustees, the meeting was upon motion adjourned.

SECRETARY

CHAIRMAN
BOARD OF EXAMINERS

CHAIRMAN
BOARD OF TRUSTEES

BOARD OF EXAMINERS
BOARD OF TRUSTEES
ASHEVILLE POLICEMEN'S
PENSION AND DISABILITY FUND

The Board of Examiners and the Board of Trustees of the Asheville Policemen's Pension and Disability Fund met in special session on Monday, February 23, 1981 at 10:00 A.M. in the Council Chambers of the City Hall Building. Present were: John M. Biggs; John Best; John A. Henderson, M.D.; Kenneth M. Michalove, City Manager; F. Jack Cole, Trustee; Walter L. Dillingham, Trustee; Robert J. Robinson, Counsel for the Boards; and Lila Leet L. Hudson, Fringe Benefits Administrator.

Also present: Max O. Cogburn, Attorney at Law; J. Lawrence Smith, Attorney at Law; Hartman R. Kuykendall; and Williamson B. Allison.

Absent: William C. Frue, Jr., Chairman of the Board of Trustees, and Mayor Roy M. Trantham, Chairman of the Board of Examiners.

The minutes of the January 19, 1981 meeting were approved as written.

HARTMAN R. KUYKENDALL: FURTHER CONSIDERATION OF REQUEST FOR DISABILITY RETIREMENT IN THE LINE OF DUTY.

Further consideration was given to Hartman R. Kuykendall's request for disability retirement in the line of duty.

At a previous meeting, Mr. Kuykendall had informed the Board that he had been involved in an accident on Tunnel Road in 1969 causing back injury; that in 1971, he was involved in an altercation while making an arrest at the Office Lounge, injuring back; and again, in 1979, while working (removing cabinets) at Police Department during remodeling, twisted back. Upon determining that records were unavailable for the 1969 alleged accident, the Board had instructed Mrs. Hudson to request medical records from physician(s) and hospital(s) relating to injury and treatment. Mr. Smith, Attorney for Mr. Kuykendall, was to get medical release form signed and made available to Mrs. Hudson.

Mr. Smith requested that the Board of Examiners delay this meeting for approximately fifteen (15) minutes as he had to be in Superior Court. The Board then questioned Mrs. Hudson as to whether or not all medical information/records had been received from the physician(s) and hospital(s) and was informed that all had been received with the exception of the report from Memorial Mission Hospital.

After discussion, in which it was decided that the hospital report was necessary, motion was made by Mr. Best, seconded by Mr. Biggs, and unanimously approved that action on the request be continued until the March meeting.

Mr. Smith, Attorney for the claimant, stated that not only was Mr. Kuykendall suffering from the twisted back injury (07/20/79), but that he had also been injured in 1969 in a traffic accident on Tunnel Road and had lost one (1) year's work because of that; also, in 1971, Mr. Kuykendall was injured in an altercation at the "Office Lounge" while making an arrest; that these findings are in the file along with abnormal lab tests that would prove that he was no longer able to work as a police officer.

Dr. Henderson advised Mr. Smith that although lab findings were abnormal, they do not prove cause/effect.

At this time, it was the consensus of the Board to go into Executive Session. (Mr. Smith left the hearing under protest.)

Upon resuming the meeting, Mr. Robinson advised Mr. Kuykendall and his Attorney, Mr. Smith, that additional medical evidence was wanted by the Board to prove or disprove pre-existing condition prior to his employment by the City of Asheville. Mr. Robinson further advised the claimant that the Board requested all medical examinations reports, military or otherwise, to be submitted to them. In addition, records of the 1969 accident on Tunnel Road should be submitted. The Board instructed Mrs. Hudson to contact hospitals/physicians requesting such medical reports. Mr. Smith advised that he would submit to Mrs. Hudson a medical release authorization to expedite the matter.

After no further discussion, it was the consensus of the Board to defer any action until the next meeting.

WILLIAMSON B. ALLISON: FURTHER CONSIDERATION OF REQUEST FOR CHANGE IN STATUS OF RETIREMENT FROM NORMAL RETIREMENT TO DISABILITY RETIREMENT IN THE LINE OF DUTY.

Mrs. Hudson advised the Board that Williamson B. Allison had retired on normal retirement on January 31, 1977; that in December, 1978, he had requested the prior Board to change his retirement status from normal retirement to disability retirement in the line of duty; that on July 09, 1979, the prior Board had recommended that the request be denied and that Mr. Allison's retirement status remain the same. However, no action was taken by the Board of Trustees at that time. The Board of Examiners received such information to turn over to the Board of Trustees.

ACTION BY BOARD OF TRUSTEES

The Board of Trustees accepted the information from the Board of Examiners and advised Mr. Cogburn that after review of the file and of the minutes of the prior Board, a decision would be rendered; however, until such review could be made, no action would be taken and the case was deferred to the next meeting.

ASHEVILLE POLICEMEN'S
PENSION AND DISABILITY FUND

The regular monthly meeting of the Board of Examiners and the Board of Trustees of the Asheville Policemen's Pension and Disability Fund was held on Monday, January 19, 1981 at 10:00 A.M. in the Council Chambers of the City Hall Building. Present were: Mayor Roy M. Trantham, Chairman of the Board of Examiners; John A. Henderson, M.D.; John Best; John M. Biggs; Kenneth M. Michalove, City Manager; William C. Frue, Jr., Chairman of the Board of Trustees; F. Jack Cole, Trustee; Robert J. Robinson, Counsel for the Boards; and Lla Leet L. Hudson, Fringe Benefits Administrator.

Also present: Max O. Cogburn, Attorney at Law; Williamson B. Allison; J. Lawrence Smith, Attorney at Law; and Hartman R. Kuykendall.

Absent: Walter L. Dillingham, Trustee.

HARTMAN R. KUYKENDALL: CONSIDERATION OF REQUEST FOR DISABILITY RETIREMENT IN THE LINE OF DUTY.

Consideration was given to Hartman R. Kuykendall's request for disability retirement in the line of duty.

Mrs. Hudson read a memorandum from Chief Fred Hensley, Asheville Police Department, to the Board presenting a request from Mr. Kuykendall for retirement. Chief Hensley also stated that Mr. Kuykendall had expended all accrued sick, annual and holiday leave and was in an inactive status on the payroll until such time as the Board renders a decision on this request. Mrs. Hudson presented the request along with medical reports submitted to support request to the Board who, in turn, requested that Mr. Robinson review the file and make recommendation to the Board.

Mr. Robinson observed after initial review of the file that Mr. Kuykendall seemed to meet the criteria of the Act as his present condition, according to Worker's Compensation Findings of Fact, was due to injury arising out of scope of employment. Mr. Kuykendall twisted his back on July 20, 1979 removing a counter in the Police Department while re-modeling was being done. Mr. Smith advised the Board that Louis A. Waller, M.D., had submitted a report to Worker's Compensation rating Mr. Kuykendall as fifty percent (50%) disabled.

Dr. Henderson stated, after reviewing the medical evidence, that there was no indication that pain Mr. Kuykendall was having was secondary to such injury on job and that he would recommend that Mr. Kuykendall was not eligible for disability retirement in the line of duty. He further observed that if an individual believes himself to be in pain and to be disabled, no physician can evaluate such pain and no lab tests to prove pain.

J. Lawrence Smith, P.A.
ATTORNEY AND COUNSELLOR AT LAW
SUITE 700 GENNETT BUILDING
29 NORTH MARKET STREET
ASHEVILLE, NORTH CAROLINA 28801

J. LAWRENCE SMITH
STEPHEN D. KAYLOR

AREA CODE 704
258 1125

March 16, 1981

MAR 18

Ms. Lla Leet Hudson
City of Asheville
Board of Examiners
P.O. Box 7148
Asheville, N. C. 28807

Re: Hartman R. Kuykendall

Dear Ms. Hudson:

Enclosed, please find original Affidavit of Hartman Kuykendall.

If you have any questions, please do not hesitate to call this office.

Very truly yours,

J. LAWRENCE SMITH, P.A.

J. Lawrence Smith

JLS/nt

Encl.

LARRY H. PHILLIPS: FURTHER CONSIDERATION OF REQUEST BY ASHEVILLE MUNICIPAL CREDIT UNION FOR PAYMENT OF EMPLOYEE CONTRIBUTIONS TO PENSION PLAN BE MADE TO CREDIT UNION.

At a previous meeting, the Board of Trustees had declined to make payment of Employee Contributions of Larry H. Phillips to the Asheville Municipal Credit Union to offset balance on loan from the Credit Union.

Mrs. Hudson advised the Board that Mr. Phillips had been located and that an authorization had been issued by Mr. Phillips to make such payment of his Employee Contributions to the Credit Union.

After review of the authorization, the Board advised Mrs. Hudson to initiate such papers to make payment of Employee Contributions as authorized; check is to be made payable to Larry H. Phillips and Asheville Municipal Credit Union jointly.

There being no further business, the meeting was upon motion adjourned.

SECRETARY

CHAIRMAN
BOARD OF EXAMINERS

CHAIRMAN
BOARD OF TRUSTEES

376

J40 395

FEB 12 198

MEDICAL RECO DEPARTMENT

ASHEVILLE POLICEMEN'S PENSION AND DISABILITY FUND

Board of Examiners

BOARD OF TRUSTEES

February 10, 1981

RECEIVED
FEB 19 1981

Medical Records Department
Duke Hospital
Durham, North Carolina 27710

Dear Sir:

The Board of Examiners for the Asheville Policemen's Pension and Disability Fund is currently investigating the eligibility of Hartman R. Kuykendall for disability retirement under the above named plan.

In order to determine this individual's eligibility, the Board of Examiners is required to review the complete medical history of each applicant for retirement. To facilitate this review, I am requesting, on behalf of the Board of Examiners, that copies of all medical records pertaining to Hartman R. Kuykendall be forwarded to the Board, and in particular, medical records relating to confinement/treatment for an accident in August, 1969. I have attached a copy of a Medical Release Authorization from Mr. Kuykendall to this letter.

Thank you for your cooperation in this matter and please let me know if I may be of assistance to you in expediting this request.

Very truly yours,

Lla Leet L. Hudson

Lla Leet L. Hudson
Fringe Benefits Administrator

LLH:s

Attachment

P.O. Box 7148 • Asheville, North Carolina 28807

STATE OF NORTH CAROLINA
COUNTY OF BUNCOMBE

AFFIDAVIT OF
HARTMAN KUYKENDALL

BEING first duly sworn, according to law, the affiant deposes and says as follows:

1. My name is Hartman Rankin Kuykendall, white, male, born December 4, 1931.

2. During the month of November, 1979, and specifically on November 16, 1979, I was in the Memorial Mission Hospital, Asheville, N. C., for treatment of injury to my spine. I recall Dr. David Jarrett coming into my hospital room and telling me that he had been advised to see me by my general practitioner, Dr. L. C. Waller. I told him that in July, 1979, I had hurt my back at the Police Department on the job while I was tearing out a counter and involved in putting down tile. Not at any time did I ever tell Dr. Jarrett that I had been putting down tile at my home. It is true that I had told the doctor that no one else could do the job because we had tried to get an outside agency to do the job at the Police Department, but no one was available. My home address at the time and frame in which the doctor was speaking in his report dictated 11/16/1979, was at 46 Russell Avenue. I have never in my life done any tile work at that home. I recall having been given some fairly strong drugs at the time I was in the hospital and at the time that I talked to Dr. Jarrett, but I am sure that I did not tell him that I was putting down tile at home two weeks previous to the time that I talked to him when I told him about my injury. As I recall, I had entered the hospital for treatment on or about October 31, 1979.

FURTHER, AFFIANT SAITH NAUGHT.

Hartman Rankin Kuykendall
HARTMAN RANKIN KUYKENDALL

SWORN TO AND SUBSCRIBED TO BEFORE ME THIS 16th DAY OF MARCH, 1981.

My Comm. Expires:
March 8, 1982

Dawes James Taylor
NOTARY PUBLIC

CY JAMES TAYLOR
NOTARY PUBLIC
STATE OF NORTH CAROLINA

DUKE UNIVERSITY MEDICAL CENTER

KUYKENDALL, HARMAN

J4 0 395

SPDC Note
Page 2 continued

I am going to request that his x-rays be forwarded to me for review and then will be in touch will the patient directly regarding whether further examinations are necessary.

M. S. Mahaley, Jr., M. D.
Division of Neurosurgery

MSM:bh

cc: Dr. Louis C. Waller
1425 Patton Avenue
Asheville, North Carolina 28806

DUKE UNIVERSITY MEDICAL CENTER

KUYKENDALL, Hart[illegible] R.

J4 0 395

November 2, 1971

Neurosurgery Note

M. S. Mahaley, Jr., M. D.

SPDC NOTE

This 39 year old white right handed male policeman was referred here today by Dr. Waller of Asheville, North Carolina for evaluation of neck and shoulder difficulty since an accident. The patient was allegedly directing traffic 26 months ago when he was struck by an automobile which caused him to fly through the air landing on the back of his head. He had immediate onset of severe pain in the posterior neck region. He was taken to the emergency room where he had some sutures taken in the head and x-rays were taken of the neck and head. He was released afterwards. He tried after a few days of recuperation to return to work but because of pain in the neck and left shoulder and arm region he was unable to continue. He has been seen by orthopaedists, neurosurgeons, and a chiropractor in the past and has had two myelograms, one in 1970 and another in 1971 to investigate the neck area. He continues to have posterior cervical pain with pain in the left shoulder and down the left arm to the wrist with intermittent numbness into the medial aspect of the left hand and to some degree in the left forearm. He thinks that the left arm is weak as well. He has had injections of Cortisone in the left shoulder region without help. He ad halter traction eased his pain only temporarily. He notices increase in his neck pain with any sort of straining maneuver. He tried to go back to work once but had to quite because of persistent difficulty. He was referred here at this time for further neurological evaluation regarding this persistent neck and left arm pain problem.

Physical examination today revealed his vital signs to be normal. He was an alert and cooperative white male in no apparent distress. Examination of the HEENT revealed some limitation of extension of the neck and tilt to the left or right secondary to pain posteriorly. Examination of the heart, lungs, and abdomen was unremarkable. On neurological examination he was found to have hypalgesia of the entire left posterior scalp region, shoulder area, arm, hand, and anterior chest area on the left. There was no definite focal weakness and no reflex asymmetry although at times the patient did not seem to exert himself fully with motor strength testing in the left upper extremity. Rectal examination was normal.

Accessory findings today revealed a hemoglobin of 16.8, WBC 9,000, urinalysis normal.

It is felt that the patient has neck and left arm pain with an uncertain etiology at this time. I cannot be certain of any organic neurological deficit today.

FAMILY HISTORY

CANCER
DIABETES
TUBERCULOSIS | 0

KIDNEY DISEASE
BLOOD DYSCRASIAS
HEMOPHILIA | 0

ARTHRITIS
BIRTH DEFECTS
MISCELLANEOUS | 0

PAST HISTORY

HYPERTENSION
ANEMIA
DIABETES
ARTHRITIS | 0

PNEUMONIA
TUBERCULOSIS
RHEUMATIC FEVER
TETANUS IMMUNIZATION | 0

SYPHILIS
GONORRHEA
MISCELLANEOUS | 0

ALLERGY

ASTHMA
HAY FEVER
URTICARIA
MISCELLANEOUS | 0

SOCIAL HISTORY

OCCUPATION Policeman
MARITAL STATUS (M)

OPERATIONS

None

INJURIES

HABITS

DIET
TOBACCO 5 packs
ALCOHOL
SLEEP

REVIEW OF SYSTEMS

SKIN

LESIONS UNDERGOING CHANGE — hyperpigmented area

HEAD

HEADACHES ± PI.

EYES

VISION good
DIPLOPIA No
GLASSES yes

EARS

DEAFNESS
TINNITUS
VERTIGO
DISCHARGE | 0

NOSE & THROAT

URI
SINUSITIS
TONSILLITIS | 0

MOUTH

LESIONS
TOOTHACHE
PERIDONTAL DISEASE | 0
LAST SAW DENTIST

CARDIO-RESPIRATORY

DYSPNEA
ORTHOPNEA
COUGH
HEMOPTYSIS
NIGHT SWEATS
ANKLE EDEMA
PALPITATIONS | 0

GASTRO-INTESTINAL

APPETITE Good
WEIGHT CHANGE Steady
NAUSEA
VOMITING
HEMATEMESIS
ABDOMINAL PAIN
DIARRHEA
CONSTIPATION
MELENA
HEMORRHOIDS
JAUNDICE | 0

GENITO-URINARY

FREQUENCY
NOCTURIA
URGENCY
DYSURIA
HEMATURIA
KIDNEY STONES | 0

MENSTRUAL

PREGNANCIES
MISCARRIAGES OR ABORTIONS
MENARCHE — REGULARITY
INTERVAL — DURATION
FLOW
LMP — PMP
DYSMENORRHEA
LEUKORRHEA
LIVING CHILDREN
LACERATIONS
COMPLICATIONS

EXTREMITIES

VARICOSITIES
CLAUDICATION
DEFORMITIES
MISCELLANEOUS | 0

NERVOUS

CONVULSIONS
PARALYSIS
FAINTING
STROKE
TIA | 0

ENDOCRINE

DUKE UNIVERSITY MEDICAL CENTER
DEPARTMENT OF SURGERY

HISTORY FORM

REFERRING PHYSICIAN:
Louis C. Waller MD
1425 Patton Ave
Asheville N.C.

Kuykendall, M. Hartman R.
J40395
Age 39
11-2-71
Dr. Mahaley

IDENTIFYING STATEMENT AND CHIEF COMPLAINT:

39 yo w/m Policeman, (R) handed, shot for evaluation of pain in (L) shoulder & arm and neck pain

PRESENT ILLNESS:

Was struck from behind while directing traffic 2 6 months ago. Flew through the air landing on the back of his head. He was knocked unconscious for a few minutes. Has had severe burning pain since afterward. Taken to hosp ER where head was sutured, xrays taken and pt released. After few days recuperation at home tried to return to work but unable because of pain in neck (L) shoulder and (L) arm. Since he has seen several MDs including two orthopedists and a neurosurgeon (Dr McKeel) as well as a chiropractor. Hosp & head traction eased pain only temporarily. Two injections of Ecochan in (L) shoulder post. did not help. Has been on many meds. Myelograms & CAT

Pain is mainly in lower neck post → upper post lat cervical area to head, causing headaches. There is also pain in (L) scapular region. Pain → post (L) arm to 4th 5th fingers (L) hand. The pain is aggravated by bringing arm more than 3:4 hrs and is eased by lying down. Movement of (L) arm at shoulder ↑ pain in arm. Also the pain, numbness & tingling of lower arm and (L) fingers. ↑ by resting arm on area of pain

In addition has had lower back pain → (R) leg posteriorly

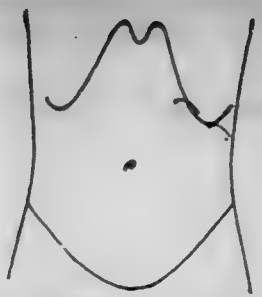
PRESENT MEDICATIONS:

DRUG SENSITIVITIES: ō

BLOOD TRANSFUSIONS: 5

ABDOMEN

Flat NT/ND no organomegaly or masses



HERNIAE No

SKELETAL AND NEUROMUSCULAR

UPPER EXTREMITIES | Well developed. No ~~clubbing~~, cyanosis or edema. ~~Atrophy of~~ strength WNL

LOWER EXTREMITIES

SLR +50° on R (pain). + Lasegue's test (R).

SPINE ↓ pp over C8 dist Dam. Tender over paraspinal & lumbosacral regions

REFLEXES

Grade 0-4	L	R
Biceps	+2	+2
Radial	+1	+1
Triceps	+1	+1
Abdomen		
Knee	+2	+2
Ankle	+2	+1
Babinski		

PELVIC

VULVA
INTROITUS
WALL
CERVIX
FUNDUS
ADNEXA

GENITALIA

PENIS — Nl adult male uncirc.
SCROTUM
TESTES
EPIDIDYMUS
VASA

RECTAL

SPHINCTER
HEMORRHOIDS
STOOL
MISC.

RECTAL

SPHINCTER — NL
HEMORRHOIDS
PROSTATE — WNL
STOOL
MISC.

MISCELLANEOUS CNI - ~~DTR~~ mildly. Gait & station - WNL
Mental status - symptoms otherwise WNL.

IMPRESSION AND DISPOSITION

1. Nerve/root trauma. C8 on (R)
2. ~~Ruptured~~ Herniated cervical disc c HNP R
   Peripheral nerve lesion Sciatic nerve

SIGNATURE: _____

DUKE UNIVERSITY MEDICAL CENTER
DEPARTMENT OF SURGERY

PHYSICAL EXAMINATION

J # 0395
Age 39
11-2-71
Dr. Mahaley

GENERAL T 37.4 P 80 R 28 B.P. ___
Alert cooperative. NAD

HT. 67½" WT. 160 lbs.

SKIN - patchy telangiectasia
HAIR NL
LYMPHATICS No adenopathy

HEAD AND FACE

EYES
E.O.M. full
Conjunctivae clear
Sclerae clear
Pupils PERRLA

EARS
Hearing wnl
Canals patent
Tym.Mem. NL

NOSE
Air Passages patent
Discharge No

SINUSES

OPHTHALMOSCOPIC
Retina Blurring
Vessels Normal
Disc ? pale good margins

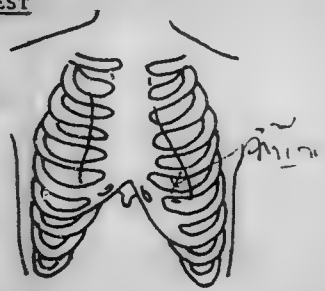
MOUTH
Teeth edentulous
Tongue midline
Tonsils
Pharynx } NL grossly

NECK Pain & limitation rotation (R) flexion

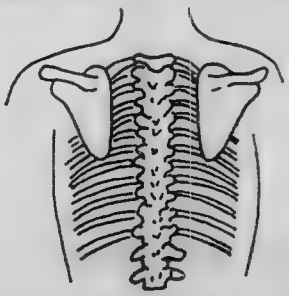
BREASTS

Axillae

CHEST



Chest ? PID



HEART
Inspection
Palpation
PMI
Auscultation } NL
S1 S2 - WNL. ? S3 or S4 gallops
CHARACTER OF PULSE: NL

PERIPHERAL VESSELS:

	Carotid	Brachial	Radial	Ulnar	Femoral	Popliteal	P.Tibial	D. Pedis
RIGHT	+2	+2			+2		+1	
LEFT	+2	+2			+2		+1	

RECEIVED
FEB 20 1981

BONE AND JOINT CLINIC
of Asheville

Walter M. Watts, M.D.
Wayne S. Montgomery, M.D.
William J. Calhoun, M.D.
Nathan L. Burkhardt, Jr., M.D.
Orthopaedic Surgery
Doctors Drive
Asheville, N. C.
Phone 254-8366

HIST. NO. 26908

DR. N. L. BURKHARDT DATE 9-3-69

NAME KYLE KENDALL, Hartman R. S.S. No.

ADDRESS 41 Panola Street, Asheville, North Carolina 28801 PHONE 253-3120

AGE 37 RACE W SEX M MARITAL STATUS M REFERRED BY

PERSON RESPONSIBLE FOR BILL [redacted] Police Dept.

EMPLOYER Police Dept. OCCUPATION Patrolman

SPOUSE EMPLOYED American Enka

INSURANCE

ROUTINE ( ) COMP (X) FW ( ) LIABILITY ( ) OTHER

RELATIVE OR FRIEND RELATION

ADDRESS PHONE

RELATIVE TREATED

COMPLAINT AND ON-SET: Hit by Auto Sunday Night injured back

9-3-69: This 37 year old gentleman was struck by an automobile last Sunday night apparently turning a flip, according to other observers, hitting directly on his neck and shoulder area. He was seen by Dr. Bunch in the Emergency Room where he had skull films, pelvis and chest film made which were negative.

Examination today shows some restriction of neck motion particularly to the right and right lateral bend and rotation. There is no change in reflexes in the upper or lower extremities. Some tenderness along the mid and inner scapular area, some tenderness along the posterior neck area. Back motion is possible to 30 degrees although has some discomfort in the low back area.

X-rays of the cervical spine are within normal limits.

Diagnosis: Acute cervical strain and contusion, moderate strain to the lumbosacral spine.

Treatment: Patient is to restrict his activities at home for approximately ten days prior to resuming normal activity. (BURKHARDT)

9-4-69 Farm w2c to Mr. C. R. Pinkston

9-10-69: Tenderness in the right shoulder blade and over the mid-thoracic vertebra; some mid-sternal pain occasionally.

Examination shows chest clear, no discrete rib tenderness. Full range of shoulder motion, neurologically intact, full range of neck motion, although some tenderness on lateral bend to the left and lateral rotation to the left.

DUKE UNIVERSITY MEDICAL CENTER

KUYKENDALL, Hartman W.

J4 0 395

November 10, 1971

M. S. Mahaley, Jr., M. D.

NEUROSURGERY NOTE

This patient's outside spine films and two myelograms, one from May, 1970 and the other from June, 1971 were received and reviewed. His plain films which include flexion and extension films are negative and his myelograms both are normal.

M. S. Mahaley, Jr., M. D.
Division of Neurosurgery

MSM:bh

cc: Dr. Louis C. Waller
1425 Patton Avenue
Asheville, North Carolina 28806

KUYKENDALL, Hartman R. -1- Hist. No. 26908

11-10-69 (Continued): him to return to work of a light or moderately light nature.

I discussed with the patient frankly that I felt it would be for his best medical benefit that he return to work of a light nature at least, to progress to fuller work later. I told him I would be glad for him to see any other physician to either reinforce my disposition or to get another perspective on his injury and convalescence.

Patient is to see Dr. Hamilton in a couple of weeks; meantime he will continue working with Mr. Lewis, the physical therapist, in effort to mobilize the lumbar spine, to help gain strength to the upper shoulder girdle. Photocopy of entire record to Dr. Joe Frank Hamilton. (BURKHARDT)

11-18-69: Form #25 with photostats to Mr. C. R. Pinkston.

7-29-70: Photostat and bill to Gudger, Erwin and Crow, Lamar Gudger, 15 Church Street, Asheville, North Carolina.

JUL 30 1970: Patient returns with left shoulder discomfort and right hip discomfort.

Objectively he has minimal findings subjectively he has pain on abduction, external rotation of the shoulder, some vague soreness over the left rotator cuff. Neck motion is symmetrical but not producing any discrete discomfort.

Examination of the right hip shows a full range of motion. Straight leg raising at 60° on the right produces a discomfort in the posterior thigh area. Reflexes are brisk and symmetrical.

X-rays of the left shoulder AP and internal and external rotation shows a small linear calcific deposit over the greater tuberosity.

This can only be seen in internal rotation.

Diagnosis: Attritional tendinitis, left shoulder. Pendulum exercises, and Equagesic.

It is my impression that this gentlemen presents with a great deal more subjective complaints than what could be previously or recently substantiated objectively. He has seen Dr. Burleson, Dr. McKeel and will obtain their records. (BURKHARDT)

7-31-70: Letters of request for records on this patient sent to Dr. Burleson and Dr. McKeel.

7-31-70: Photostat to Mr. Pinkston.

NLE

7-13-70: Verbal consultation with Mr. Lamar Gudger regarding this patient.

2/19/81: PHOTOSTAT OFFICE NOTES TO ASHEVILLE POLICEMEN'S PENSION AND DISABILITY FUND

9-10-69 (Continued):

X-rays, PA and lateral of the chest, are within normal limits; no evidence of fracture or hemothorax.

Patient to recheck again in 10 days; do no work for two weeks. (BURKHARDT)

9-18-69: Patient has some low back and right hip and leg pain. Also, the intrascapula pain. Pain in left ring finger.

Examination shows straight leg raising negative to 70 degrees. Reflexes brisk and symmetrical. Good range of hip motion. Fist percussion over the lumbar spine is uncomfortable.

Shoulder motion full, but shows tenderness over the intrascapula area, particularly on the right.

X-rays of the lumbar spine negative. X-ray of left ring finger was normal; no fracture. (Diagnosis: Contusion, left ring finger.)
Continue on light activities. Recheck again in two weeks. (BURKHARDT)

9-29-69: Has some low back pain particularly on hyper-extension. Place him on lumbosacral support. Started on flexion excersizes by Mr. Lewis. To return to work this October 1, 1969. Restrict his activities to avoid personal contact. Recheck in 2 weeks. (BURKHARDT)

10-10-69: Admit, Mission: Patient admitted for period of intensive physical therapy and evaluation following his injury.

Patient has been unable to hold down his present job as a policeman and attempts to manage him on an ambulatory basis has not been successful. (BURKHARDT)

10-17-69: D/C, Mission: Patient has been hospitalized for a week and tends to further clarify and establish areas of discomfort and pain the to prove the situation.

He has low back pain which is aggravated by long sitting and standing; he has some pain in the intrascapular area, some in the left shoulder. Patient was initiated on a flexion traction program for his back and other physical therapy. He was also treated for shoulder and neck pain. He improved somewhat from his shoulder pain; still he has some uncomfortableness in the left shoulder.

Objectively, straight leg raising is uncomfortable at 50 degrees; reflexes are brisk and symmetrical; upper extremity reflexes are brisk and symmetrical; neck motion is also symmetrical and is normal.

Patient is to be ambulatory with his lumbosacral support for the next couple of weeks; he is to be on light activity to prepare him for returning to work. (BURKHARDT)

10-28-69: Equagesic #36

11-10-69: Evaluation today shows no change in the subjective findings. I can find no objective reflex changes or structural alterations to account for the degree of disability. I feel he definitely has soft tissue injury (strain of the left shoulder girdle and of the back). However I feel he would be helped medically if we were to progress toward a more active program allowing

388

20 July 1970

Mr. Lamar Gudger
Attorney at Law
Post Office Box 7036
Asheville, North Carolina 28807

Dear Mr. Gudger:

Re: Mr. H. R. Kuykendall
41 Panola Street
Asheville, N.C.

At the authorization of Mr. Kuykendall, and your request, the following is a summary of our care and treatment of this patient:

He was first seen by us on 10 March 1970 with a history that about 8:30 PM on 31 August 1969 he was working as an Asheville police officer directing traffic at the Star LIght Theatre Entrance on Tunnel Road when he was struck by a car exiting from the Howard Johnson Motel being struck posteriorly around the hip area. He was seen in the emergency room of Mission Hospital by Doctor Mary Bunch, x-rays done and no fracture evident. His injury, he states, took him into the air, flipping him, landing him on his head and neck. Following initial examination, he continued to have neck and shoulder discomfort, and was seen by Doctor Nat Burkhardt who cared for him as out patient; later hospitalized him in October, 1969 for traction, physical therapy, and medications. Evidently he improved, and was discharged, he states, from the hospital and ultimately from Doctor Burkhardt's care on 10 November 1969. He states he did not return to work until 1 January 1970. On returning to work this caused some pain in the head and neck on the left, some headache posteriorly. He had been off from work several days complaining of chronic, constant, throbbing pain with no real sensory or motor deficit. He had no past history of such troubles prior to his injury. Between the time of Doctor Burkhardt's discharge in November until our seeing him in March, he was seen by Doctor Dillon Chambers, Chiropractor.

On examination in March, 1970 he had twenty to thirty per cent (20-30%) limitation of neck motions, muscle soreness and some complaing of full shoulder motion on the left side. He had no neurological deficit with equal reflexes. He was tender in the levator muscle area on the left side.

X-rays of his left shoulder and cervical spine were done which were completely normal in our interpretion. He had no other area of complaint. His tender spots in the muscles were injected with cortisone like medication, and he was put on medications that should have helped some post traumatic myositis that we felt he had. He was subsequently seen on 19 March in our absence by Doctor Hamilton to adjust his medications for his continued complaints, and

ASHEVILLE POLICEMEN'S PENSION AND DISABILITY FUND

Board of Examiners

BOARD OF TRUSTEES

February 10, 1981

Asheville Orthopaedic Associates
111 Victoria at Oakland Road
Asheville, North Carolina 28801

Dear Sirs:

The Board of Examiners of the Asheville Policemen's Pension and Disability Fund is currently investigating the eligibility of Hartman R. Kuykendall for disability retirement under the above named plan.

In order to determine this individual's eligibility, the Board of Examiners is required to review the complete medical history of each applicant for retirement. To facilitate this review, I am requesting, on behalf of the Board of Examiners, that copies of all medical records pertaining to Hartman R. Kuykendall be forwarded to the Board, and in particular, medical records relating to treatment by Dr. Burleson resulting from an accident in August, 1969. I have attached a copy of a Medical Release Authorization from Mr. Kuykendall to this letter.

Thank you for your cooperation in this matter and please let me know if I may be of assistance to you in expediting this request.

Very truly yours,

Lla Leet L. Hudson

Lla Leet L. Hudson
Fringe Benefits Administrator

LLH:s

Attachment

RECEIVED
FEB 13 1981

P.O. Box 7148 • Asheville, North Carolina 28807

390.

Neurological Associates
MEDICAL CENTER BUILDING
ASHEVILLE, NORTH CAROLINA

MILLARD FILLMORE HORSLEY, M.D.
LAWRENCE B. VANDLARICOM, M.D.
JOHN WINSLOW LEMAITRE, M.D.

NEUROLOGICAL SURGERY
MEDICAL NEUROLOGY
ELECTROENCEPHALOGRAPHY

RECEIVED
FEB 20 1981

May 1, 1970

R. Joe Burleson, M.D.
283 Biltmore Avenue
Asheville, North Carolina 28801

RE: KUYKENDALL, Hartman Rankin

Dear Dr. Burleson:

Thank you for referring Mr. Hartman Rankin Kuykendall to the office. This thirty-eight year old married white male was seen and examined 1 May 1970.

HISTORY: Mr. Kuykendall, while working as a police officer directing traffic at Starlight Theater on Tunnel Road on about the 31st of August 1969 about 8:30 in the evening was struck from behind by a car coming out of the Howard Johnson establishment and apparently was somersaulted into the air and landed on his head and neck. He recalls that he remembered landing and his first thought was to get up. He then apparently reported the accident, called into headquarters but is amnestic for most of these events. He was taken to the emergency room, examined, x-rayed and released. He has since complained of pain in the neck up to the left occiput and off on to the left shoulder. This pain is aggravated by movement of the head and neck and relieved by rest. He was subsequently hospitalized in October for traction, physical therapy, etc. apparently with temporary improvement. Following this he apparently consulted a chiropractor who told him that he had a short leg and put a lift on one heel which relieved his low back and leg pain, but he has continued to complain with limitation to motion of the neck and pain in the neck, head and shoulders since. The pain does not radiate below the elbow nor does he have any paresthesias of the fingers or hand.

He describes his past health as good without significant injury or operation in the past. He had pneumonia twice as a child. There are no known allergies and he has been quite well and active as a police officer in the past.

EXAMINATION: Examination reveals a well developed and muscled thirty-eight year old white male who appears somewhat depressed and uncomfortable. Examination of the head, ENT, cranial nerves, optic fundi was unremarkable except he is edentulous with plates.

then seen by myself on 1 April. Again, medication was given and injection carried out. He was seen again 8 April, had no improvement on our routine of therapy, and he was referred, at that time, to Doctor M.F. McKeel for neurosurgical evaluation. Doctor McKeel admitted him to the hospital, did a myelogram and evidently carried out cervical traction and other treatments with final diagnosis of cervical strain, questioning disc probably C-4 interspace. However, he did not feel that surgery was indicated and the patient referred back to us and seen on 8 June 1970. Evidently there had been some disagreement on the patient's part at the hospital, and when seen at that time was complaining of low back pain due to "questionably from the needle in my back". He was finally seen on 22 June 1970, and I had discussed in detail with Doctor McKeel and the patient. He had no improvement during the time that we followed him or during the time of Doctor Burkhardt seeing him or Doctor McKeel. He felt he was still unable to do his regular job, and no further treatment, either orthopaedically or neurologically, was advised. It was felt that his final diagnosis was that of cervical spine strain with some permanent pain, that he had reached maximum improvement, and was discharged with a fifteen per cent (15%) permanent partial disability of the cervical spine, and ten per cent (10%) permanent partial disability of the lumbar spine.

We hope this will be of help to you and Mr. Kuykendall.

Very truly yours,

R. JOE BURLESON, M.D.

RJB/bwp
cc Dr Burkhardt 8-4-70

392 Lawrence Rankin Raybondall

Dr. McKeel

Dict. 5-29-70

cc: Dr. R. J. Burleson

MEMORIAL MISSION HOSPITAL OF W. N. C. Inc.

ASHEVILLE, NORTH CAROLINA

This 38 year old married white male was admitted to Mission Hospital May 23, 1970 because of neck, left shoulder, arm pain with some depressed sensation in the deltoid area, as well as questionable weakness in this area, as a possible C4 disc. He had been hit down by a car while directing traffic on Tunnel Road the last of August 1969 and had pain in the low back and in the neck and shoulder since. Routine admission laboratory studies were within a normal limits with a sed rate of 10 mm. per hour, a spinal fluid protein of 55 mg. percent. Cervical myelography was carried out May 24, and this revealed no evidence of disc defect in the cervical region. As noted, the spinal fluid protein was moderately elevated. He was put on a course of physical therapy including traction which tended to aggravate rather than improve the pain. There was noted an increased angle at C4 in extreme flexion but his neck range of motion was remarkably free, and it was felt that cervical interbody fusion at C4 at this time at least, was not indicated. Patient was discharged May 29, 1970.

FINAL DIAGNOSIS: Cervical strain, question HNP C4.

OPERATIONS: Lumbar puncture with cervical myelography.

COMPLICATIONS, INFECTIONS: None

CONDITION ON DISCHARGE: Unimproved.

TYPE OF REPORT
Discharge Summary

SIGNED
M. F. McKeel, M. D./dr 6-9-70
M.D.

PHYSICIAN'S COPY

RE: KUYKENDALL, Hartman Rankin

The strap muscles on the left side of the neck posteriorly are more prominent than on the right and in the mid portion here there is some tenderness. Neck range and motion is limited in extension and rotation with discomfort referred to the left occiput and neck and top of the shoulder. There is a slight tendency to wing of the left scapula. Abduction of the left arm is done rather poorly though I was unable to define any definite atrophy or weakness of the left deltoid. The patient reports the pinwheel depressed over the left circumflex nerve area as compared to the right. There was no weakness of the biceps, triceps or pronator and the tendon reflexes were present and equal throughout. There was no sensory disturbance in the hands or fingers. Heart and lungs were clear. Blood pressure 112/80 in the left arm in the sitting position.

X-rays of the cervical spine which you had made on the 10th of March in flexion and extension were reviewed and while the disc spaces are well maintained without hypertrophic degenerative changes, in the flexion film there is an angulation at C4 level.

IMPRESSION:

I am suspicious of some disc derangement at the C4 level in this man and have suggested that he get a soft cervical collar to wear while at work to see if this improves his situation to any degree. If it does, I would be inclined to offer this the benefit of the doubt as a candidate for anterior interbody disc excision and spine fusion of C4-5.

We will plan to recheck him on the 13th and will advise you of our evaluation of him at that time.

Again thank you for the opportunity of seeing him. With kind regards, I remain,

Sincerely yours,

Millard F. McKeel, M.D.

MFM/bdh

PROGRESS NOTES RE: KUYKENDALL, Hartman Rankin

4-19-71: Patient called in today indicating that he had been in a scuffle when a person who was placed under arrest by lieutenant began to take a swing at the lieutenant, Mr. Kuykendall grabbed the individual around the neck with his left arm from behind and placed his fist in this person's back and the two of them went to the ground and scuffled for awhile until Mr. Kuykendall's arms went numb. He is in today, now complaining of recurrent pain in the neck, both shoulders, carrying the left arm sort of against his side when he walks. There is weakness and apposition of the thumb of the right hand but I was unable to detect any other focal muscle weakness. Sensation was intact. Reflexes were normal. X-rays in the flexion and extension view again revealed no narrowing of the interspaces or hypertrophic change. No evidence of fracture dislocation but there is some reversed angle at the C5 space at this time. He was placed on Valium and Darvon 65 Compound, advised heat, massage to the neck and shoulder area and will recheck in one week.

MFM/mab

4-26-71 - Patient in today looking like he feels a good deal better than he did last Monday but still has considerable discomfort particularly in the left shoulder. There seems to be weakness on both sides in apposition of the thumbs today against the little fingers. He has freer neck range of motion but still with some limitation. He is to continue the Valium, Darvon, heat and massage and exercise. Will recheck in a week.

MFM/bh

5-3-71: Patient in today, a very blustery, cold 40° for May 3, 1971 feeling worse than he did before. Again, I am unable to find any focal nerve root findings though he has 50% limitation in extension and rotation of his neck. Will refer for physical therapy daily to include diathermy, massage to the neck and shoulders and intermittent cervical traction. Will recheck in two weeks.

MFM/mab

5-10-71 - Patient in today indicating that the traction has made his shoulders and neck hurt worse. He moves about in a very frozen like fashion with his head forward and slightly flexed at the waist. He is advised to use heat at home, continue the Darvon and Valium, to wear his soft cervical collar and we will get a recheck appointment for Dr. Burleson's evaluation and possible treatment. Will recheck in a week.

MFM/bh

Copy- Dr. Burleson

PROGRESS NOTE RE: KUYKENDALL, Hartman Rankin

5-17-71: Patient in today still having pain down between the shoulder blades if he extends his neck, wearing a soft cervical collar which does help. We will give him a trial on Indocin 25 mgm. t.i.d. for a week, consider uping it at that time if he has some beneficial results.

MFM/mab

5-24-71 - Patient in today indicating that the cervical collar helps, that neck range of motion increases his pain. He still has the pain between his shoulder blades into the left shoulder and on top of the right. He indicates the pinwheel is depressed over the left deltoid area. It was a year today that we did his last myelogram. The Indocin tends to nauseate him so I think we best leave it off. Will continue as we are for another week or ten days, get a reservation for a room for a repeat myelogram if he is not better.

MFM/bh

6-2-71: Patient in today indicating he is essentially no better and does indicate diminished pinwheel sensation over the left deltoid, though both are equally full. The arms and forearms measure in circumference and I can really detect no reflex change. The collar does help. We will plan to readmit to hospital next Wednesday for myelogram on Thursday June10, and be guided by this.

MFM/mab

Copies of this page and notes beginning 4-19-71 to Mission Hospital

6/21/71 - Patient in today following discharge from hospital where he had a normal cervical myelogram carried out the 10th of June. Again his spinal fluid protein was slightly elevated but multiple views there was absolutely no hint of any nerve root encroachment in the cervical area. He has had some discomfort in the hips and right leg since his myelogram. Has been continuing physical therapy on an outpatient basis. He is to go to Raleigh this week for a class in communications which will be an area of lighter duty in the department and it is recommended that he make every effort to try this. We also discussed the possibility of him seeing Dr. Waller for continued physical therapy and general support because I feel we have done all that we can to exclude the possibility of a neurosurgical lesion in this patient at this time.

MFM/bh

10-28-71: Patient's X-Rays were sent to Dr. Stephen Mahaley in the Private diagnostic Clinic at Duke University at the request of Dr. Waller's office. O. K.'d by Dr. McKeel.

MEMORIAL MISSION HOSPITAL OF W. N. C. INC
ASHEVILLE, NORTH CAROLINA

Dr. William F. Wilson

IMPRESSION: 1. Arthralgias and myalgias, etiology unclear. Certainly a HLA-B27 reactive process must be considered, as well as a connective tissue disorder or other disorders which would cause myalgias.

RECOMMENDATIONS:
1. Laboratory studies including an HLA-B27, Maine medical special studies, thyroid profile, antinuclear antibody, CPK have been ordered.
2. Bone scan is ordered to determine if there is any increased activity which would suggest a HLA-B27 reactive process.
3. Would increase the Indocin to 50 milligrams with each meal and at bed time with food.
4. Would not change other therapy at the present time until the above studies have been returned.

ADDENDUM: There is 3+ tenderness in the left supraclavicular fossa and 2+ in the right.

Thank you very much for asking me to see Mr. Kuykendall and I will followup on the studies and discuss him with you.

CONSULTATION:

William F. Wilson, M.D. 05/11/84

Dictated 11/30/79. cc: Dr. Garrett.
cc: Dr. Waller.
cc: Dr. Weiss.
cc: Dr. Burkhardt.

ATTENDING PHYSICIAN: Dr. Waller.

This is a 47 year old Caucasian male who states he was completely well with no bone joint, muscle, or other problems until he was involved in an accident approximately 10 years ago. He was hit from behind while directing traffic and apparently landed on the concrete on his head. Subsequent to that he has had pain in the upper and lower back and in the proximal muscle groups of the pelvic and shoulder everyday. He was seen initially by Dr. Burkhardt who treated him conservatively, however, he felt he did not have the full response. Subsequent to that Dr. McKeel saw him and performed 2 myelograms both of which were reported to be normal. He was evaluated at Duke where he was told that he would learn to live with his discomfort. The pain as I noted has been present everyday and has never had any relief with the exception of some ultrasound which Dr. Waller used for the neck. This lasted only a few days. This summer he was working with tile and noted a great deal of increase in the pain in the upper and lower back area. Since then he has noted that when ever he bends forward he has to push himself up with his hands as he can not straighten up with his back. The pain is described as an ache primarily infrascapular with some discomfort into the shoulders and in the forearms. The same is present into the upper thighs and low back area which he describes as a discomfort as if he had been running and become sore. There has been no weakness. He denies all symptoms of a connective tissue disorder, a rheumatoid variant, or rheumatoid arthritis. Specifically no prior history of back pain before the initial episode and to urethritis, conjunctivitis rashes, or fever. Medications have not been beneficial. While in the hospital he has been evaluated comprehensively with a number of myelograms, EMG, and x-rays. Laboratory studies have revealed a normal blood count, sedimentation rate, urinalysis, and SMA-12. Physical therapy and medications including Valium and Indocin have been used. Allergies: Penicillin.

LAST MEDICAL HISTORY: Completely well prior to 10 years ago.

FAMILY HISTORY: There is no history of arthritis or low back pain in the family.

PHYSICAL EXAMINATION: Reveals a well developed, well nourished man with excellent muscular development who is in no acute distress, but moves with slow deliberate movements. Temperature is 99, blood pressure 120/70, and pulse is 86 and regular.
HEENT: [illegible]. Temporal arteries are normal. Palpable, pulsatile, nontender.
CHEST: Clear to P&A.
HEART: No gallops, rubs, or murmurs are present, although a split first sound is present.
ABDOMEN: Without organomegaly.
SKIN: [illegible].
NAILS: No clubbing.
NEURO: Grossly within normal limits with no loss of sensation. Muscle strength is otherwise normal. Straight leg raising to 60 degrees is negative. Musculoskeletal revealed [illegible] to 90 degrees with full range of motion without restriction. There is no tenderness over any of the joints of the spine. No laxity of the joints are present. Tenderness is present along the [illegible] bilaterally. There are several areas in the back which are tender along the [illegible] is normal with bilateral symmetry. Forward flexion of the hips to 60 degrees produces pain in the [illegible] region. There is loss of the normal lumbar lordosis. One plus tenderness exists both sides of the [illegible]. Straight leg raising is normal. Patellar reflexes are normal. Two plus throughout. Sensation is normal. Rectal tone is normal. Rectal exam is negative. Prostate is normal. Stool is guaiac negative. Hemoglobin is 15.4 gm% with hematocrit of 45 vol%. White blood count is 6,000 with normal differential. Urinalysis is normal. SMA-12 is normal. Sedimentation rate is 10 mm/hr. Chest x-ray is normal. Cervical spine x-rays are normal. Lumbosacral spine x-rays are normal. Pelvis x-rays are normal. Hip x-rays are normal. Bone scan is

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LOUIS C. WALLER, M. D.
DIPLOMATE AMERICAN BOARD OF FAMILY PRACTICE
1423 PATTON AVENUE
ASHEVILLE, N. C. 28806

November 19, 1980

Mr. Larry Smith, Attorney-at-Law
Suite 201 Gennett Building
Asheville, N. C. 28801

RE: Hartman R. KUYKENDALL

Dear Mr. Smith:

Mr. Kuykendall has continuing acute cervical and lumbosacral strain; HLA-B27 positive fasciomyositis and tenosynovitis with traumatic aggravation; Hyper-Immunoglobulin-M. In addition, a cervical spine x-ray on November 14, 1980, revealed a narrowing of the left 4-5 neuronal foramina. This results in acute nerve root pain down the left side of his neck and upper back.

Because of the above, Mr. Kuykendall is unable to work and perform his duties as a police officer or in the maintenance department. In my opinion, he has a 50% permanent disability of the function of his back.

He is still under my care and his treatment will be indefinite.

If additional information is needed, please advise.

Sincerely,

L. C. Waller, M. D.

lw

WNC Arthritis Clinic, P.A. -02954
A203 Doctors Bldg. - RHU
Asheville, NC 28801

MAY 28 REC'D

HARTMAN KUYKENDALL

2/12/80 HLA-B27 is positive. I feel the arthralgias and myalgias he is having is secondary to this. Indocin caused headaches and he is getting only partial relief from Clinoril. He changed to Naproxen 2 each am and 2 each pm #40, R5, and if this is not effective will then use a different nonsteroidal. Will return in three weeks. WFW/rj

cc: Dr. Waller

2/25/80 - Pt now taking Naprosyn for injury
[illegible] doing [illegible]
3/[illegible]

3-[illegible] Continues with arthralgias and myalgias and is not responding to any nonsteroidal medications. He feels he is unable to work at the present time because of the pain. Will begin a swimming program in an attempt to improve the muscles. He will swim three to five times each week with a gradual increase in the amount of distance. I will see him in one month and he will be discussing with the Police Department his future. He will continue on Clinoril that Dr. Waller gave him. Return in one month. WFW/rj

cc: Dr. Waller

4/[illegible]/80 - Some response to ~~[illegible]~~ Clinoril - Still [illegible] arthralgias & myalgias - Try Prednisone 40+2, 30+3, 20+2 [illegible] taper

5/7/80 Did not respond to Prednisone. I would expect an inflammatory disorder to respond to either Cortisone, ACTH or multiple anti-inflammatory agents that have been used. Certainly he has a HLA-B27 and has the arthralgias and myalgias, however, I am not sure at the present time if these are completely related. Any work causes pain but this is not the soreness which would normally expect. No objective findings have been noted. He does relate that Quinine helpes, so I have asked him to take one each morning and 1 each evening. If this does not help then we will make other changes. WFW/rj

cc: Dr. Waller

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LAW OFFICES OF
SHUFORD AND JARVIS
606 NORTHWESTERN BANK BUILDING
ASHEVILLE, NORTH CAROLINA 28801

BILL SHUFORD, JR
SCOTT E. JARVIS

704 258 1234

July 29, 1985

JUL 30 1985

Honorable William F. Slawter
814 Northwestern Bank Bldg.
Asheville, N.C. 28801

Re: H.R. Kuykendall

Dear Bill:

Thank you for the list of items included in the H.R. Kuykendall file for consideration by the County Commission. Although I do not have a summary of the testimony previously made by Louis Waller, M.D., in the earlier hearing, I am sure that should be in the notes of the hearing and I would appreciate the Commission looking at the notes of Dr. Waller's testimony. In addition, I enclose herewith copies of three articles from the Professional Medical Journal of the rheumatologist entitled "The Fibrositis Syndrome: A Common Cause of Soft-Tissue Pain," "New Tests Validate Fibrositis and Ease Diagnosis," and "HLA and Disease." They may shed some light on the nature of Mr. Kuykendall's problem and accordingly they are submitted for the Commission's consideration.

I renew my offer for you to look at my file for anything further which may be of interest to you on behalf of the Commission.

Thank you for your attention on this matter.

Sincerely,

Scott E. Jarvis

SEJ/as

Enclosures

252-4341

LOUIS C. WALLER, M. D.
DIPLOMATE AMERICAN BOARD OF FAMILY PRACTICE
1425 PATTON AVENUE
ASHEVILLE, N. C. 28806

November 17, 1980

RE: Hartman R. KUYKENDALL

To Whom It May Concern:

I first saw Mr. Kuykendall on August 31, 1979, at which time he was complaining of pain in both hips and in the lumbar spine area with tenderness. He gave a history of bending over and pushing a cabinet while he was tiling a floor. He was treated with traction treatments, muscle relaxants, and anti-inflammatory agents.

In the next few days he developed pain and spasm in his trapezius and posterior cervical muscles. This pain and spasm continued in spite of prolonged conservative treatment.

He was seen in consultation by Dr. Weiss, a neurosurgeon, on October 04, 1979. His diagnosis was chronic cervical and lumbosacral strain.

He was seen on November 30, 1979, by Dr. William Wilson. His diagnosis was chronic cervical and lumbosacral strain; HLA-B27 positive fasciomyositis and tenosynovitis with traumatic aggravation; Hyper-Immunoglobulin-M.

His pain and spasm have continued to this date. When last seen on November 14, 1980, he had acute pain in his neck on rotation to the right and left with limitation of thirty degree range of motion. At that time he also had acute spasm of the left rhomboideus muscle. Results of a cervical spine x-ray done on this date revealed a narrowing of the left 4-5 neuronal foramina. This results in acute nerve root pain down the left side of his neck and upper back.

In conclusion he has this continuing acute cervical and lumbosacral strain; HLA-B27 positive fasciomyositis and tenosynovitis with traumatic aggravation from his initial injury on July 20, 1979.

40 most acutely from beneath the umbrella of a wide assortment of soft-tissue pain syndromes variously described as the scapulohumeral syndrome, myofibrositis, fibromyalgia, and so on. The purpose of this article is to review the current state of our knowledge regarding the diagnosis, pathophysiology, and treatment of the fibrositis syndrome.

Diagnosis

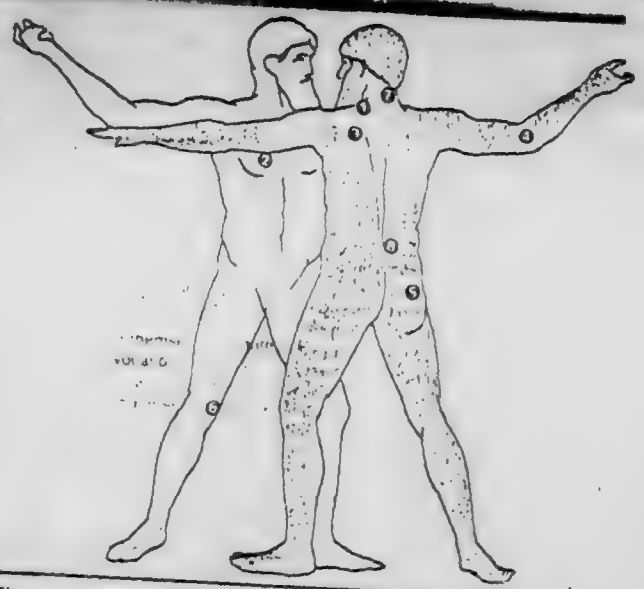
As defined by Smythe and his colleagues, the fibrositis syndrome is a soft-tissue pain syndrome with the features shown in Table 1.

Chronic pain: Typically, the pain is of at least three months' duration and is widespread in the regions of the cervical and lumbar segments. Symptoms tend to be worse with dampness, cold, immobility, and emotional tension. Symptoms vary from day to day, but it is rare that the person feels "normal." Although the patient may complain of burning, numbness, or swelling, there are no abnormalities on physical examination.

Trigger points: The presence of discrete trigger-point areas are essential to the diagnosis of fibrositis. Ordinarily at least four of 14 trigger points should be painful for diagnosis, although Smythe has emphasized the more stringent criteria of 12.

A trigger point is a small surface area (less than 1 cm in diameter) which, when palpated, produces a pattern of local and referred pain. The pain that is the patient's main complaint is reproduced after pressure over this point. Similar pressure of a surface area just outside the trigger point area will not result in pain. The trigger points occur in relatively well defined anatomical locations. The most common ones, according to Smythe and Moldofsky, are indicated in the Figure, but this list is not complete. They are mostly bilateral, except for the single midline points in the neck and over back. Curiously, these points are slightly tender in normal persons, and the trigger points demonstrable in the fibrositis syndrome are an exaggeration of these normally sensitive areas.

Sleep disturbances: A patient with fibrositis usually has a sleep disturbance. Characteristically, the patient may fall asleep readily but then awakens in an hour or two with occasional short periods of sleep thereafter. The patient sometimes does not recognize this sleep disturbance, and it may be helpful to ask his or her spouse, who usually will state that the patient tosses and turns all night. As a result of such sleep disturbance, the fibrositis patient arises fatigued in the morning.



The most common trigger points for fibrositic pain

1 Trapezius (right and left): midpoint of the upper fold of the trapezius
2 Second costochondral junctions (right and left)
3 Supraspinatus origins (right and left): above scapular spine and near the medial borders of the scapula
4 Lateral epicondyles (right and left): "tennis elbow" sites
5 Buttocks (right and left): center of the upper outer quadrants of the buttock
6 Knees (right and left): fat pad medial to the knees overlying the medial collateral ligament
7 Neck: interspinous ligaments in the midline at C_4-C_5 and C_5-C_6
8 Lumbar area: L_4-L_5 interspinous ligament; less commonly at L_3-S_1

Perfectionistic personality: The majority of fibrositis patients are compulsive, rigid people. They make great demands on [illegible] job-related and [illegible] activity. They are fastidious and impress the physician during [illegible] as "not being able to relax." They frequently suffer migraine headaches and depression as well.

Laboratory tests and differential diagnosis: Primary fibrositis syndrome is a diagnosis of exclusion since a wide variety of other diseases can also cause local and widespread soft-tissue pain. The major diseases that should be considered in the differential diagnoses are indicated in Table 2. As several of these are associated with specific laboratory findings, normal test results help rule them out (Table 3).

Polymyalgia rheumatica is generally seen in patients over 50 years of age and is characterized by pain and stiffness in the shoulder and pelvic girdle areas without weakness. The disease is usually associated with an erythrocyte sedimentation rate greater than 50 mm/hour.

Mediguide to Inflammatory Diseases

Original Article

The Fibrositis Syndrome: A Common Cause of Soft-Tissue Pain
The fibrositis syndrome, believed to be caused by the interaction of a chronic tension state and the reflex phenomenon associated with pain of deep origin, is a distinct clinical entity. Dr. Arthur D. Bankhurst discusses its characteristics, including chronic pain and discrete trigger points, and reviews the multidisciplinary treatment approach—exercise and behavior modification. Page 1

In the Literature
Penicillamine associated with polymyositis, few cases seen after cytotoxic drug therapy, Sjogren's syndrome classified serologically, and acupuncture assessed for low back pain are the topics from recent journal articles that evoke comment by Dr. Goodwin. Page 5

Medibulletins
Secondary osteoarthritis found not distinct from primary SLE in elderly men; not so rare an occurrence. Gold induces lung disease in RA. Find OCs do not protect against RA. Test rules out sepsis in bursitis. Puzzling inflammatory diseases seen in newborn. Spot urine collection called useful for monitoring SLE. Page 6

Relevant Meetings and Courses for CME Credit Page 8

Medindex
A compilation of titles from the international literature. Page 8

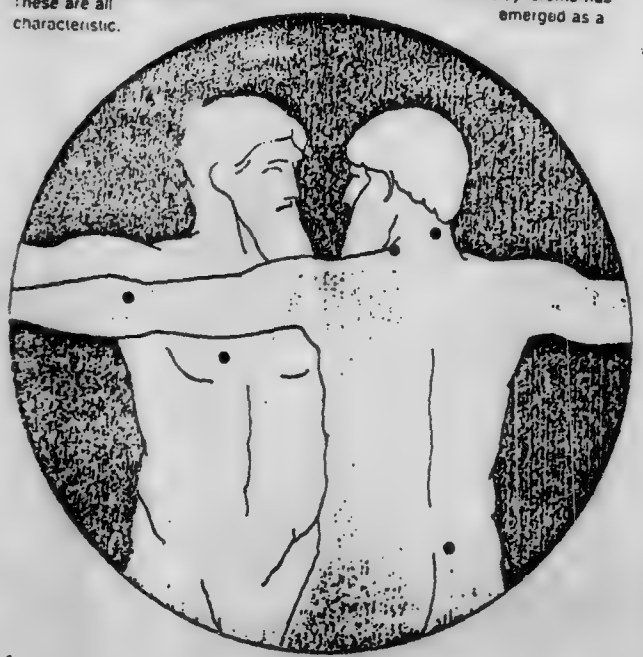
The Fibrositis Syndrome: A Common Cause of Soft-Tissue Pain

Arthur D. Bankhurst, MD
Professor of Medicine
Chief, Division of Clinical Immunology and Rheumatic Diseases
University of New Mexico School of Medicine, Albuquerque, New Mexico

Recently, a 43-year-old stockbroker came to my office complaining of "hurting all over." His symptoms of aching and occasional burning pain in his neck, shoulders, upper back, and legs had occurred for prolonged periods over the preceding three years. The symptoms did not appear to be related to rest, time of day, or unusual physical activity, but cold weather and periods of working long hours seemed to make the symptoms worse. The patient stated that he also felt perpetually "exhausted," particularly on arising in the morning. His physical examination was unremarkable except for discrete areas of "trigger point" tenderness over the interspinous spaces of the lower cervical and lumbar vertebrae, the upper medial borders of the scapulae, the midpoint of both trapezius muscles, and both lateral epicondyles. Laboratory studies were normal.

This case illustrates some of the essential points in a classic example of the fibrositis syndrome: the chronic nature of the problem, the presence of trigger points with no other abnormalities on physical examination, and a normal laboratory profile. These are all characteristic.

During the last decade or so, the fibrositis syndrome has emerged as a



in his activities. This behavior pattern has to be altered so that the patient recognizes his impatient life style and alters his goals to more realistic ones. Tension should be abated with rest, exercise, and diversion. Finally, biofeedback relaxation techniques, with a further emphasis on relaxation from chronic tension, are often helpful.

Education: Physical fitness may be important for the patient with fibrositis. Runners and other physically fit individuals are less likely to develop the fibrositis syndrome even after sleep deprivation. However, it must be emphasized to the patient that bicycling, swimming, or running should not become an "inner competition" but should be done in a low-key, relaxed manner. In addition, the fibrositis patient should carry out a ten-minute exercise program each morning before dressing and again in the evening. The exercises include stretching/mobilizing exercises

Table 4
Management of the Fibrositis Syndrome

- Education and reassurance
- Exercise
- Trigger-point therapy
- Drugs: non-narcotic analgesics, centrally-acting skeletal-muscle relaxants, and antidepressants

and back flexion maneuvers. Some patients find hot packs or a warm bath useful adjuvants to their daily exercises.

Trigger-point therapy: Trigger-point injection often produces a dramatic response. Generally, the most painful trigger points are selected, as it may be impractical to attempt to inject all points. A corticosteroid-anesthetic mixture is commonly used empirically. The maximal amount of corticosteroid administered into multiple sites should not exceed 40 mg of methylprednisolone or equivalent in 1 to 10 mL of local anesthetic. Ordinarily, trigger points should not be reinjected more often than once a month.

Despite the widespread use of corticosteroid-anesthetic injections for the relief of trigger-point pain, however, it has not been established that it clearly makes a difference if such a mixture or saline alone might be equally effective. For example, Lewitt found that dry needling alone produced immediate analgesia without hypoesthesia in 86% of patients with chronic myofascial pain. Also, since it has been shown that brief, intense, electric stimuli are highly effective for controlling some forms of severe chronic pain, it is occasionally useful to apply a transcutaneous electrical stimulator (TENS) to a bothersome trigger point.

Drugs: The useful drugs can be divided into three categories: non-narcotic analgesics, centrally-acting skeletal-muscle relaxants, and antidepressants. Helpful analgesics include aspirin or salicylate derivatives and acetaminophen; narcotics do not play any role in the treatment of the fibrositis syndrome. Examples of centrally-acting skeletal-muscle relaxants are diazepam and [illegible]benzazepine. Studies have shown experimentally tricyclic antidepressants can prevent the alpha intrusion of the delta wave pattern associated with deep stage 4 sleep. A dose of 10 to 75 mg of amitriptyline is helpful, but keep in mind that dosage has to be tailored to the patient to avoid frightening dreams or morning lethargy.

Results of therapy: The combined approach of drugs, exercise, physical therapy and judicious trigger-point therapy often brings prompt relief. However, it should be emphasized to the patient that the fibrositis syndrome is a chronic illness that is subject to exacerbation under conditions of tension, sleep deprivation, and cold exposure. Compliance is critical to long-term management. The majority of fibrositis patients whom we continue to see in our clinics no longer require trigger-point therapy as long as they follow their exercises and behavior modification program.

The fibrositis syndrome in the rheumatoid patient

Not infrequently we encounter patients with rheumatoid arthritis whose musculoskeletal complaints increase despite the fact that their synovitis and laboratory evidence of inflammation have decreased. This subgroup of patients often turns out to have trigger points and their worsening symptoms are not related to rheumatoid arthritis but constitute a "secondary fibrositis" syndrome. Therapy for the secondary fibrositis syndrome is the same as just outlined and does not involve remission-inducing drugs that are indicated for rheumatoid arthritis.

Summary

The fibrositis syndrome is a distinct clinical entity characterized by chronic pain and stiffness and discrete trigger points but otherwise normal physical and laboratory findings. A history of sleep disturbances also helps differentiate it from other disorders that cause soft-tissue pain. Treatment requires a multidisciplinary approach and the patient's compliance in a program of exercises and behavior modification to relieve underlying muscular tension. ■

Suggested Reading

Moldofsky H, Scarisbrick P, England R, et al: Musculoskeletal symptoms and non-REM sleep disturbance in patients with "fibrositis syndrome" and healthy subjects. *Psychosomatic Med* 1975;37:341–351.

Moldofsky H, Chester WJ: Pain and mood patterns in patients: a prospective study. *Psychosomatic Med* 1970;32:309–318.

Lewitt K: The needle effect in the relief of myofascial pain. *Pain* 1979;6:83–90.

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[illegible] patients experience fatigue and myalgia before overt articular symptoms develop. Such a presentation may also be seen in systemic lupus erythematosus or scleroderma. A positive rheumatoid factor test, a history of morning articular stiffness, and a careful examination for synovitis usually distinguish these diagnoses from primary fibrositis.

Hypothyroidism frequently results not only in myalgias but, eventually, weakness. An elevated serum thyrotropin level can distinguish this condition from primary fibrositis.

The stiffness associated with parkinsonism can be confused with fibrositis. However, the presence of a rest tremor, "cog wheel" movements, and an absence of associated arm movements all point to the correct diagnosis.

Inflammatory muscle disease such as polymyositis and dermatomyositis are associated with muscle pain and subsequent weakness. The development of profound weakness and elevated concentrations of muscle enzymes such as creatine-phosphokinase distinguish these disorders from fibrositis.

Finally, keep in mind that although we have been addressing the so-called idiopathic or primary fibrositis syndrome, fibrositis may be a secondary manifestation of a concomitant disease. In addition to being the initial manifestation of connective tissue disease such as rheumatoid arthritis or polymyositis, hypothyroidism and various other clinical conditions, secondary fibrositis also may sometimes occur in association with metabolic diseases (ie, hypokalemia), neuropathic (ie, diabetes mellitus), and various occult or overt neoplasms. Again, it is important to emphasize that the laboratory tests indicated in Table 3 should be within normal range before a diagnosis of primary fibrositis can be made.

Table 1

Diagnostic Features of the Fibrositis Syndrome

- Chronic pain, stiffness, and exhaustion
- Trigger points with an otherwise normal physical examination
- Sleep disturbance
- Perfectionistic personality
- Normal laboratory test results

Table 2

Differential Diagnosis

- Polymyalgia rheumatica
- Rheumatoid arthritis and other connective tissue diseases
- Hypothyroidism
- Dyskinetic phase of parkinsonism
- Inflammatory muscle disease
- Other causes of a "secondary fibrositis syndrome"

Table 3

Tests That Should Be Normal before Diagnosis of Primary Fibrositis Is Made

- Complete blood count
- Erythrocyte sedimentation rate
- Muscle enzymes
- Antinuclear antibody
- Serum protein
- Rheumatoid factor

Etiology

Although the fibrositis syndrome is accompanied by diffuse, painful trigger points, there is no consistent histopathologic changes found at these sites. It is currently believed that the fibrositis syndrome is due to the interaction of a chronic tension state and the reflex phenomenon associated with pain of deep origin. The importance of a tension state resulting from chronic sleep disturbance in the fibrositis patient is emphasized by the investigation of Moldofsky and coworkers. In these studies, ten fibrositic subjects were studied by electroencephalograms (EEGs). All ten showed a decrease in the deep stages of sleep (stages 3 and 4) and overnight increase in trigger-point tenderness. Ordinarily, stage 4 sleep is associated with one cycle per second delta waves. The fibrositis patients had a faster alpha rhythm (8 to 10 cycles per second), which was superimposed on the delta rhythm and supported the fact that they had a poor sleep pattern.

In a second study, Moldofsky actually was able to experimentally reproduce the fibrositis syndrome in healthy young students by altering their pattern of deep sleep—by arousing them during the night with repetitive auditory stimuli. After baseline EEGs were obtained, the students were deprived during three nights of stage 4 sleep by loud noises. Those normal subjects who were not able to establish their pattern of deep sleep, as indicated by alpha waves superimposed on delta waves on the EEG, went on to develop many of the clinical aspects of the fibrositis syndrome such as trigger points. The symptoms completely disappeared during a recovery night when they were not subjected to auditory stimuli.

Another study, by Fowler, showed that patients with chronic myofascial pain suffer from chronic muscle tension, as indicated by the fact that they had 50% more electrical activity in performing a standardized task than did normal controls.

In summary, the localized trigger points in the fibrositis patient cannot be ascribed to histopathologic changes at these sites. We do know, however, that a chronic tension state related to a chronic inability to reach a deep stage of sleep is an important factor contributing to the syndrome.

Management

A multidisciplinary approach, outlined in Table 4, is required for successful treatment of the fibrositis syndrome.

Education and reassurance: It is not sufficient to initiate an analgesic regimen without adequately explaining to the patient the origin of his or her pain and the particular relationship between the trigger points and a chronic tension state. Often, the patient will have already visited several physicians and may have been labeled variously as a malingerer or having "psychogenic rheumatism." It should be carefully emphasized that the patient suffers from a chronic pain condition that is definitely not the same as a psychogenic pain state. Demonstration to the patient of specific trigger points often indicates for the first time that there is a specific diagnostic entity amenable to therapy.

The fibrositis patient often has a compulsive, perfectionist attitude toward

eases. In secondary fibrositis, the symptoms arise in the presence of such diseases as rheumatoid arthritis or systemic lupus erythematosus. The two forms are estimated to comprise about 15% of most rheumatologists' practices. But little has been known about fibrositis' etiology and pathogenesis. The new extensions in knowledge were reported at the American Rheumatism Association meeting in San Antonio, Texas.

Immune marker in skin

Xavier J. Caro, M.D., a clinical assistant professor of medicine at the University of California at Los Angeles, reported on the study that suggested the immune skin test. His team looked for clinical and laboratory markers of immune-related disease in 25 patients with apparent primary fibrositis. Each complained of widespread, symmetrical, nondescript aching pain for longer than three months, local tenderness at 10 or more of 25 examined sites, skin roll tenderness over the upper scapular region, disturbed sleep patterns, morning stiffness and fatigue.

None of the patients could be placed in any other known rheumatic disease category, because they all had normal x-rays and laboratory test findings such as sedimentation rate, serum calcium, rheumatoid factor, and antinuclear antibody. Their mean age was 51, and 23 of the 25 were women.

Each patient had a 4 mm skin punch biopsy taken from the extensor part of the forearm. Direct immunofluorescent staining revealed band-like granular deposition of IgG at the dermal-epidermal junction in 76% of the patients' biopsies, Dr. Caro reported. The deposit wasn't seen in skin from 23 normal controls and 48 "diseased" controls with rheumatoid arthritis, progressive systemic sclerosis, polymyositis or psoriasis.

"Skin immunofluorescence testing is a well-accepted way of identifying immune-related problems," explains Dr. Caro. Dermatologists previously found a similar band in the skin of patients with systemic lupus erythematosus. Dr. Caro hopes the test will help to substantiate subjective evidence of fibrositis.

His staining studies didn't detect IgA, IgM, C3 or fibrinogen in the biopsy specimens. This may have been due to a lack of test sensitivity to less strongly positive immune components, says Dr. Caro. If other researchers confirm his results, he thinks potential fibrositis patients should routinely have the test. The tissue sample can be taken in the physician's office and stored in a transport medium while it is being sent to [illegible] for research [illegible].

To check for a relationship between skin immunofluorescence and inflammatory phenomena, Dr. Caro devised a four-point scoring system. Patients with positive skin tests proved to have a higher mean inflammation score.

Autonomic system ties

Since fibrositis has long seemed linked to autonomic nervous system (ANS) dysfunction, the California team also rated patients with a four-point scoring system for such ANS-associated symptoms as heat intolerance, dry eyes, migraine and GI disorders. Again, patients with positive skin tests scored higher, Dr. Caro

Oregon questionnaire that indicates possible fibrositis

Patient instructions: In the spaces after the statements, please check the frequency that best describes your experience.

	Never	Sometimes	Often	Almost Always
1. I sleep well at night.				
2. I feel well rested when I get up in the morning.				
3. I wake up frequently at night.				
4. I tire [illegible]				
5. I am too tired during the day to do what I want to do				
6. I have pain in my neck and shoulders.				
7. I am still in the morning.				
8. I have pain in my muscles and joints.				
9. I ache in the morning.				
10. Pain wakes me up at night				
11. Heat (such as from a heating pad) helps my pain				
12. My pain is affected by the weather.				
13. I have more pain when I am emotionally upset.				
14. My pain is worsened by noise.				
15. Exercise makes me feel better.				

Physician instructions: The diagnosis of possible fibrositis requires the following combination of answers

Statement 6 or 8— Often or Almost Always
plus
Statement 7 or 9— Often or Almost Always
plus
Statement 2— Never or Sometimes
plus
Any two of statements 11-15—Often or Almost Always

Myositis often doesn't require daily steroids—Page 3

Reye's risk and tooth harm tied to chronic aspirin for JRA—Page 7

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Bimonthly newsletter on current research in rheumatology

New tests validate fibrositis and ease diagnosis

The diverse discomforts of fibrositis, or "soft tissue rheumatism," do not originate in patients' heads, as some skeptics have maintained. Two teams of researchers report they've come up with objective tests and criteria that demonstrate the disorder's presence and link it to an immune abnormality and dysfunction of the autonomic nervous system.

A California study of 25 patients with fibrositis symptoms revealed that three quarters had IgG deposits in their skin. The abnormality can be easily detected in skin biopsies with immunofluorescent staining. The researchers also devised rating scales that showed patients with positive skin biopsies had high scores for inflammatory phenomena and autonomic dysfunction.

In a different study of 22 patients, an Oregon team found that fibrositis could be easily diagnosed with a questionnaire that asks about telltale symptoms and a "colorimeter" test that measures tenderness at common sites of fibrositic pain. The test results showed that fibrositis patients aren't tender all over and don't have an abnormally low pain threshold, as has been suggested.

Being able to define fibrositis more precisely and test for it should ease management of many patients. It is estimated that hundreds of thousands or perhaps over 1 million Americans suffer from nebulous aches and pains or "rheumatism." These complaints often respond to treatment with aspirin or nonsteroidal anti-inflammatory agents. And recent findings may lead to the development of more specific therapy, researchers suggest.

The term *fibrositis* was coined in 1904 to describe a type of low back pain but later was applied more generally to idiopathic local or diffuse musculoskeletal pain. Patients with the syndrome complain about having many discrete tender points and also such disparate symptoms as headaches, intestinal problems, morning stiffness, sleep disorders and fatigue.

Fibrositis is usually divided into two forms. In the primary form, the syndrome's typical symptoms occur in the absence of other rheumatic dis-

Medguide to Inflammatory Diseases

Original Article

HLA and Disease
In a comprehensive discussion, Dr. Joel D. Taurog explains what the genes of the HLA complex are and how useful serologic typing of a person for these antigens may or may not be in diagnosing and predicting specific rheumatic diseases. **Page 1**

Special Supplement

Highlights of American Rheumatism Association meeting **Page S1**

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In the Literature

Dr. Goodwin comments on these subjects from recent journal articles: confirm spirochete role in Lyme disease, causes of osteoarthritis reviewed, what stimulates anti-DNA antibodies in SLE, anti-SN antibodies may indicate worse prognosis for SLE, outlook variable in Felty's syndrome, define alcohol's action in triggering gout. **Page 6**

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Young black, Hispanic children show poor lupus outcome. Arthritis caused by S dublin. Search for Mycoplasma as cause of septic arthritis. Two tests can assess amyloidosis progression. **Page 7**

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HLA and Disease

Joel D. Taurog, MD
Assistant Professor, Section Rheumatology/Clinical Immunology
Department of Medicine, University of Minnesota, Minneapolis, Minnesota

Every vertebrate organism has, on one pair of chromosomes, a major histocompatibility complex, or MHC. This is a complex of genes that contains the genetic code for cell-surface molecules involved in the recognition of foreign antigens. Many of the initial discoveries about this gene complex were made by transplantation immunologists during the 1940s, '50s and early '60s. The past 15 years have seen interest in the MHC extended into additional areas of biology and medicine.

It has become increasingly clear that the gene products of the MHC have changed surprisingly little throughout evolution. In fact, these gene products apparently have evolved from the same primitive gene that has given rise to immunoglobulins and probably other "recognition" proteins. It is thought that these molecules have evolved as defenses against infectious disease. Many of them have now been associated with specific chronic diseases. This review describes these gene products and their functions and discusses their relation to disease states.

Gene products of HLA

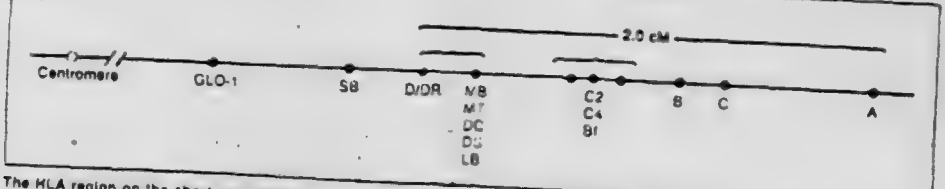
The human MHC, which is usually referred to as HLA, is located on the short arm of chromosome 6 (Fig). The class I and II protein products have been well characterized.

Class I antigens are found on the surface membranes of almost all nucleated somatic cells. In humans, three class I genetic loci are defined, each encoding a series of allelic antigens. The products of these A, B, and C loci (HLA-A, HLA-B, HLA-C) are co-dominantly expressed on cell surface; that is, alleles inherited from both parents are expressed in the children, and no single one is dominant.

Class II antigens are intimately involved in the control of the immune response. They are expressed primarily on macrophages and related "antigen-presenting cells," B lymphocytes, and activated T lymphocytes. The locus for these antigens is known as HLA-D or DR. There is good evidence for at least three such class II antigens in humans.

The class III products of the HLA complex are the complement components C2, C4, and properdin factor B. These are produced and secreted by

Figure



The HLA region on the short arm of human chromosome 6. Class I genes: A, B, C; Class II genes: D/DR, SB, MB/MT/DC/DS/LB; Class III genes: C2, C4, Bf. The relative positions of the genes for D/DR and for MB/MT/DC/DS/LB are not known; SB is thought to map between D/DR and GLO-1 (glyoxalase). The relative positions of the complement loci are not known.

reported. He believes the correlations are more than coincidence. Other research evidence has suggested that patients with immune problems suffer from ANS disorders. His team is now investigating possible connections between fibrositis and ANS dysfunction and also the mechanism through which IgG is deposited in patients' skin.

Life-style at stake

"Fibrositis isn't an insignificant problem," Dr. Caro insists. "Most nonspecialists consider it to be a mild disease, just a nuisance." But 40% of the California patients claimed they were disabled by the disease. "It's not life-threatening, but the pain is so debilitating it threatens the life-style," he says. "And old-time clinicians always believed it was a common problem."

The other fibrositis report given at the meeting also stated that soft-tissue rheumatism is a common, readily definable syndrome. The team, led by Stephen M. Campbell, MD, at Oregon Health Sciences University in Portland, used a screening questionnaire (see form) to identify possible fibrositis patients among hundreds of patients attending medical clinics during a three-month period. Matched clinic patients who didn't meet the questionnaire criteria were used as controls.

There was a high rate of musculoskeletal complaints in both groups, but the 22 patients who were diagnosed as having definite fibrositis all had a characteristic constellation of symptoms including axial pain, severe aching and stiffness, morning fatigue and pain modulation by specific factors. The group furthermore had a higher prevalence of tension headaches and irritable bowel syndrome.

The Oregon team evaluated tenderness over 26 specific body areas with a spring-loaded gauge called a dolorimeter. "The tender points of fibrositis patients were much more tender than corresponding points of controls," says Dr. Campbell, who is an assistant professor of medicine.

"We also found that fibrositis patients aren't tender everywhere and don't have a diminished pain threshold or tolerance."

The Oregon study showed that it's possible to make objective measurements of localized tenderness. Points providing the best discrimination between the fibrositis and control groups were in the paraspinous, trapezius, gluteus and occiput areas. Patients with definite fibrositis had a total of at least 12 tender points.

Dr. Campbell notes that the fibrositis tender points are "remarkably consistent" and symptoms are "almost universally worsened by cold, humid weather." Such features indicate, he says, that "at least some peripheral tissue abnormality exists." What's more, his study found an almost universal sleep disturbance pattern consistent with non-REM sleep deprivation. And standard psychological tests revealed no differences between fibrositis patients and controls, "making a primary psychogenic etiology unlikely."

Part of larger morass?

The Oregon researchers c[illegible] that soft-tissue rheumatism is a "morass," of which fibrositis may represent only a small segment. But more than 5% of the university clinic patients who completed the questionnaire gave answers indicating possible fibrositis. Also, 6 of the 22 patients with definite fibrositis were men, demonstrating that it isn't a disease virtually confined to women.

But the most important finding, says Dr. Campbell, is that clinicians can identify unrecognized fibrositis "with high sensitivity" just by asking patients the 15 simple questions making up the Oregon questionnaire. The answers of a patient with possible fibrositis typically reveal a history of pain and stiffness that worsens in the morning and changes with the weather and emotional upsets.

Reference

Presented at the annual meeting of the American Rheumatism Association, San Antonio, Texas, 1983.

Myositis often doesn't require daily steroids

Despite their inherent risks, daily steroids are the textbook treatment for idiopathic myositis. Now, a team at the Mary Imogene Bassett Hospital (MIBH) of Columbia University, Cooperstown, N.Y., says alternate-day therapy can be effective in mild to moderate forms of the disease.

In a study of 27 adult patients with dermato- or polymyositis, Gary S. Hoffman, MD, found that 8 of 11 who received only alternate-day therapy achieved excellent clinical results. Six of the eight have had no recurrence off steroids for 4 to 42 months.

Evidence of milder disease

Comparing the MIBH results to those of large referral centers such as UCLA, Dr. Hoffman attributed the success of the modified dosage to less serious disease. He reported his results at the annual meeting of the American Rheumatism Association.

The mean patient age was 59 years, higher than most series, which usually also include children. Aside from this, the MIBH patients were similar to those in other studies: 41% had polymyositis; 22%, dermatomyositis; 7% had associated malignancies; and 30% had overlap syndromes, including scleroderma, systemic lupus erythematosus and classic rheumatoid arthritis. Daily steroids at a mean dose of 59 mg were given to 19 seriously ill patients, and five of these also received a cytotoxic agent.

The daily therapy group had a higher incidence of severe infection, Cushing's syndrome, fractures and new-onset diabetes that required insulin. Patients who did not become cushingoid were successfully switched to alternate-day medication within two to three months.

Both the MIBH and UCLA studies used the strength grading scales of

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The class III antigens function in the classical or alternative complement pathways. It is likely that there are other, as yet unidentified, HLA-linked loci that are important not only in the immune response but in the more fundamental self-recognition processes of embryologic differentiation. Furthermore, although many HLA-associated diseases are apparently related to autoimmunity, others are apparently due to enzyme deficiencies or defects in anatomic development. Our current level of knowledge of the function of the HLA gene products may not be adequate to explain the mechanism of some of these HLA-associated diseases.

HLA AND SPECIFIC DISEASES

If, within the general population, a particular disease occurs with a greater frequency among individuals who bear a particular HLA antigen than among those who lack this antigen, the disease and the antigen are said to be *associated*. If the disease and the antigen are shown by family studies to be consistently inherited together (ie, if they do not segregate in mendelian fashion), the two are said to be *linked*.

Association is measured by calculating *relative risk* (RR) as follows:

RR = hK/kH, where

- h = no persons with the disease and with the antigen
- k = no persons with the disease but without the antigen
- K = no persons without either disease or the antigen
- H = no persons without the disease but with the antigen.

Suppose 1,000 healthy people are HLA-typed and the frequency of DR4 in this group is found to be 22%. If an ethnically comparable population of 100 patients with rheumatoid arthritis is studied and 65% are found to have DR4, then the relative risk is (65) (780)/(35) (220) = 6.58. This should mean, then, that the risk of developing rheumatoid arthritis is 6.58 times as great for a DR4$^+$ person as for a DR4$^-$ person. In practice, however, the 1,000 healthy controls are likely to include a substantial number of young adults, a few of whom may later in life develop rheumatoid arthritis. The true frequency of DR4 in the population who will never develop rheumatoid arthritis may thus be somewhat less than the observed 22%, and the true relative risk may be somewhat higher. But because most DR4$^+$ individuals do not develop rheumatoid arthritis, this slight inaccuracy can be ignored.

This inaccuracy may be more significant in the case of ankylosing spondylitis and HLA-B27. HLA-B27 has been found in about 90% of Caucasians with classical ankylosing spondylitis and in about 6% of normal Caucasian blood donors. However, studies have suggested that about 20% of supposedly normal B27$^+$ individuals actually have undiagnosed ankylosing spondylitis. If the equation is correct for this observation, the relative risk to a B27$^+$ person of developing ankylosing spondylitis increases from 141 to 178. This is by far the closest association of any HLA marker to a particular disease.

Disease heterogeneity

It is apparent that there is no disease in the Table for which there is a 100% association with a particular HLA-encoded antigen. There are two major explanations for this. One is that clinically recognized disease states almost always are the results of complex processes; for a given disease, HLA-linked genes may contribute to only part of the process in

Table

Some HLA [illegible] Associations

Condition	HLA	Frequency (%)		Relative Risk
		Patients	Controls	
Idiopathic hemochromatosis	A3	76	28	8
	B14	16	4	5
Ankylosing spondylitis	B27	90	9	87
Reiter's disease	B27	79	9	37
Acute anterior uveitis	B27	52	9	10
Subacute thyroiditis	B35	70	15	14
Psoriasis vulgaris	Cw6	87	33	13
Dermatitis herpetiformis	DR3	85	26	15
Celiac disease	DR3	79	26	11
Sjogren's syndrome (primary)	DR3	78	26	10
Addison's disease (idiopathic)	DR3	69	26	6
Graves' disease	DR3	56	26	4
Insulin-dependent diabetes	DR3	56	26	3
	DR4	75	32	6
Myasthenia gravis	DR3	50	26	2.5
Systemic lupus erythematosus	DR3	70	26	6
Idiopathic membranous nephropathy	DR3	75	20	12
Multiple sclerosis	DR2	59	26	4
Rheumatoid arthritis (seropositive)	DR4	80	32	8.5

Data are from Caucasian populations only

...ocytes and macrophages.

Serologic Identification

Most human proteins show either no variation from one individual to another (ie, no allelism) or variation in which the allelic products differ by one or at most a few amino acids. This is called *simple polymorphism*. In contrast, class I and class II histocompatibility antigens show *complex polymorphism*, in which each product differs from the others by extensive variations throughout the amino acid sequence.

Detection of HLA polymorphism is generally made serologically. The serums used are obtained mainly from multiparous women, who, as a result of repeated pregnancies, have been heavily immunized with the paternal antigens expressed on fetal cells. At a series of international collaborative workshops, specific typing serums have been identified and the specifically identified antigens given standard designations.

When an individual is typed, separate aliquots of his/her peripheral blood lymphocytes are treated with each of the different typing serums and then with a source of complement (usually rabbit serum). Those cells that have bound antibodies are lysed by the complement and then are stained with a dye which can only be taken up by dead cells.

Currently, there are about 20 different alloantigens of the A series, 40 of the B series, 8 of the C series, and 10 of the DR series that were agreed on at the most recent International Histocompatibility Workshop. An antigen that is well defined is given a letter and number designation, such as HLA-A1. An antigen for which the typing is still tentative is given a provisional designation, such as HLA-Bw41, the w standing for workshop. As serologic techniques are further refined, additional antigens have been detected that were previously typed less specifically. For example, the antigen originally defined as A9 as been "split" by more specific typing serums into Aw23 and Aw24, each of which shares one or more common antigenic determinants but also has specific "private" antigenic determinants. Most D antigens are closely related to the DR antigens of the same number, for example Dw2 and DR2.

Antigen Frequency

In accordance with the Hardy-Weinberg law of population genetics, the frequency of a given HLA allele remains constant from generation to generation within a population. Most of the well-defined HLA-A and HLA-B alloantigens have frequencies in the Caucasian population of 1% to 10%. One would expect, by chance alone, that the probability of two specific antigens (eg, A1 and B8 or B7 and DR2) occurring together would be the product of their individual gene frequencies. However, many combinations of antigens are inherited together much more often than would be predicted by chance. These antigens are said to occur in *linkage disequilibrium*.

Probably, selective pressure of infectious diseases throughout evolution has produced combinations of antigens that are effective in the immune response to common infections. Some antigens, such as DR3, that are associated with genetic diseases occur in strong linkage disequilibrium with alloantigens encoded at other HLA loci; other disease-associated antigens, such as B27, do not show any significant linkage disequilibrium.

The polymorphism of the HLA system genes helps ensure that there will be within a population at least some individuals whose particular genotypes facilitate an effective immune response against any particular microorganism.

The initiation of most immune responses depends on interactions between T lymphocytes and accessory cells such as macrophages, which process and present antigens to the lymphocytes. T lymphocytes do not respond only to antigens, however; for an immune response to be initiated, the T lymphocytes must specifically recognize not just antigen but also class II (DR) histocompatibility antigens expressed on the surface of the antigen-presenting cells. Furthermore, for T lymphocytes to "help" B lymphocytes produce antibody, similar recognition by the T cell of class II antigens on the B cell surface must occur.

In mice, guinea pigs, rats, and recently also in man, *immune response genes* have been identified that encode strong or weak responses to defined antigens. These genes have been shown to be identical to the allelic genes encoding the class II antigens; thus, the particular class II alloantigens expressed on the cells of an individual appear to dictate the particular antigenic determinants to which that individual is capable of making an immune response. In other words, the class II antigens largely define the immune response repertory of a given individual.

The class I (HLA-A, HLA-B, and HLA-C) antigens are also recognition elements for T lymphocytes, in this case the antigens being recognized are usually viral antigens expressed on cell surfaces. During the course of many viral infections, an immune response to viral antigens is mounted. Helper T lymphocytes release factors that stimulate the proliferation and differentiation of cytolytic or "killer" T lymphocytes. These cells recognize specific viral antigens on cell surfaces and subsequently lyse the cells bearing those antigens; however, the killer cells simultaneously must recognize class I antigens on the target cell surface. Thus, each T cell is simultaneously specific for both foreign and self antigens; in general, helper T cells recognize class II self antigens, while cytolytic T cells recognize class I self antigens.

Some Useful Genetic Definitions

Allele. One of two or more alternative genes that occur at a given site (locus) on a chromosome.

Alloantigen (isoantigen). An antigen that exists in alternative (allelic) forms in a species.

Allotypic determinant. A portion of a protein molecule that is antigenic for nonidentical members of the species of the organism that produced it.

Haplotype. A group of alleles of linked genes on a single chromosome.

Linkage disequilibrium. Unexpectedly persistent association in a population of alleles at linked loci.

Locus. A fixed position on a chromosome that is occupied by a given gene.

Polymorphism. Allelism; ie, multiple different genes occurring at a given locus within a species.

Recombination. The genetic result of exchange of chromosomal material between paired chromosomes during meiosis.

DR2 is positively associated with ragweed allergy, leprosy, idiopathic thrombocytopenic purpura, multiple sclerosis, and Goodpasture's syndrome; there is a strong negative association between DR2 and insulin-dependent diabetes (ie, very few cases of the disease have been observed in DR2$^+$ individuals) and, to a lesser extent, rheumatoid arthritis.

DR4 is associated with insulin-dependent diabetes and with rheumatoid arthritis, primarily the adult type in which rheumatoid factor is present. There is some evidence that DR4 is closely linked to an immune response gene to collagen and degradation products of collagen. Both normal and arthritic DR4$^+$ individuals have been shown to have a T cell reactivity to collagen that is suppressed in DR4$^-$ individuals.

DR4$^+$ individuals also have a high risk of hydralazine-induced systemic lupus erythematosus. DR5 and DR8 are associated with certain types of juvenile arthritis. This finding essentially proves that adult rheumatoid arthritis and juvenile polyarthritis have different genetic backgrounds and thus are different diseases.

Clinical applications of HLA testing

Except for organ transplantation, there are as yet few clinical applications for HLA typing. Two clear-cut clinical indications for HLA typing occur uncommonly but should be mentioned: (1) In families with recessive HLA-linked 21-hydroxylase deficiency, all siblings sharing both HLA haplotypes with an affected individual will also have the deficiency. This fact allows the problem to be diagnosed antenatally. (2) Siblings of patients with familial hemochromatosis who share both HLA haplotypes have a 96% chance of developing the disease, whereas siblings sharing one haplotype have a 21% chance. Thus, phlebotomy can be done before organ damage has occurred.

HLA typing is most commonly used to test for HLA-B27 in individuals with rheumatoid disease and/or anterior uveitis. However, there is controversy among rheumatologists over the indications for such testing, since the presence of B27 in an individual is neither necessary nor sufficient to make a diagnosis of any rheumatic disease.

Furthermore, the symptoms of inflammatory back pain are usually different from those of other forms of back pain. Characteristically, the inflammatory back pain of ankylosing spondylitis or Reiter's syndrome is associated with prominent morning stiffness and improves with movement and exercise. Back pain from most other causes is improved with rest.

The diagnosis of probable early ankylosing spondylitis can often be made on clinical grounds alone and the diagnosis of Reiter's syndrome usually can be.

Radiologic evidence of advanced bilateral sacroiliitis is required for the diagnosis of *definite* ankylosing spondylitis, but these changes can take years to develop. Consequently, a clinician should be prepared to make a provisional diagnosis and institute anti-inflammatory and physical therapy on the basis of the clinical findings. [illegible] evaluation of complex or atypical cases that B27 testing can be of [illegible] help.

The evaluation of juvenile arthritis poses special problems. B27-associated disease in children is typically an asymmetric, large-joint peripheral arthritis that begins between the ages of seven and 15 years, predominantly in boys. With this disorder, the presence of B27 allows a clinician to classify the child's disease among the many different forms of juvenile arthritis.

An argument can be made for typing the siblings of patients with insulin-dependent diabetes to assess their risk. This argument would be stronger if appropriate preventive measures such as vaccination against a specific virus were available, but this is not yet the case.

Conclusion

In general, there are no clear indications for routine HLA typing in the diagnosis or anticipation of any diseases except perhaps the B27-associated diseases. However, given the rate at which new information is being gathered on the HLA genes, there is every reason to expect that genetic profiles will soon play an important role in diagnosis and treatment of many diseases. ■

Suggested Reading and Reviews

Books

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Dausset J, Svejgaard A (eds): *HLA and Disease*. Copenhagen, Munksgaard, 1977.

Parham P, Strominger JL (eds): *Transplantation Antigens*. London, Chapman and Hall, 1982.

Reviews

(1980 Nobel Prize Acceptance Speeches)

Benacerraf B: Role of MHC gene products in immune regulation. *Science* 1981;212:1229–1238.

Dausset J: The major histocompatibility complex in man. *Science* 1981;213:1469–1474.

Snell GD: Studies in histocompatibility. *Science* 1981;213:172–178.

Relevant Meetings and Courses for CME Credit

11/4–5
Central regional meeting of the American Rheumatism Association/ Arthritis Health Professions Association—Chicago
Information: ARA/AHPA National Office, 1314 Spring St, NW, Atlanta, GA 30309

11/17–18
Northeast regional meeting of the American Rheumatism Association/ Arthritis Health Professions Association—Providence, Rhode Island
Information: ARA/AHPA National Office, 1314 Spring St, NW, Atlanta, GA 30309.

12/9–10
Southeast regional meeting of the American Rheumatism Association/ Arthritis Health Professions Association—Lake Buena Vista, Florida
Information: ARA/AHPA National Office, 1314 Spring St, NW, Atlanta, GA 30309.

1/20–28/84
First International Symposium on Musculoskeletal Disorders—Bad Ragaz and St. Moritz, Switzerland
Information: Symposium Secretary, UCLA Medical Center, 10833 Le Conte, Room 76-139 CHS, Los Angeles, CA 90024. ■

this principle is diabetes mellitus. Insulin-independent (adult-onset) diabetes mellitus has no association with HLA antigens; in marked contrast, insulin-dependent (juvenile-onset) diabetes mellitus is strongly associated with DR3 and DR4. Diabetes associated with DR3 tends also to be associated with autoantibodies to tissues such as thyroid and gastric parietal cells; in contrast, DR4-associated diabetes seems more likely to be associated with viral infections and autoantibodies only to insulin. Furthermore, at least three other genetic factors independent of HLA have been identified as independent risk factors for insulin-dependent diabetes.

The second major explanation for imperfect correlations of specific HLA antigens with specific diseases is the likelihood that many such observations are due to linkage disequilibrium between the identified antigen and the true disease susceptibility gene. Given two neighboring genetic loci on a particular chromosome, it is likely that particular alleles at each may be transmitted together for a few generations. However, over many generations, such alleles usually are separated by random recombinations and ultimately are found together with a frequency equal to the product of their independent frequencies in the population.

Within the HLA system, many antigen pairs, or clusters, occur together in haplotypes with greater than expected frequency. In Caucasian populations, the antigen A1 and B8 occur together in a haplotype about four times more frequently than is predicted by their independent gene frequencies. Often, DR3 is also found on the haplotype containing A1 and B8. Another common Caucasian haplotype is A3-B7-DR2.

It is quite likely that for many HLA-associated diseases the disease-susceptibility gene is not yet identified but occurs in linkage disequilibrium with the gene encoding the antigen with which association has been observed. Examples of such likely associations are described in the next section.

HLA-Disease Associations

Linkage with class I antigens. The allele responsible for familial hemochromatosis occurs in linkage disequilibrium with HLA-A3 and B14. Congenital adrenal hyperplasia due to deficiency of the enzyme 21-hydroxylase is linked to the HLA-B locus, but the disease allele does not occur in linkage disequilibrium with any particular B locus antigen.

HLA-B27 is associated with a group of rheumatic diseases known collectively as seronegative spondyloarthropathies and also with acute anterior uveitis. The closest association is with ankylosing spondylitis. This close association is found not only in Caucasians, in whom B27 occurs with a frequency of 5% to 14%, but also in groups with a much lower incidence of B27. For example, although B27 is found in less than 1% of Japanese, it occurs in over two thirds of Japanese with ankylosing spondylitis. This worldwide distribution of the association suggests that either the B27 antigen itself is the disease-susceptibility factor or that the factor occurs in a close linkage disequilibrium with B27. Which possibility is correct is not yet known.

In patients with ankylosing spondylitis co-existing with either psoriasis or inflammatory bowel disease, the incidence of B27 is lower than in patients with idiopathic spondylitis (50% rather than 90%). This suggests that other factors besides HLA-B27 can lead to the development of ankylosing spondylitis.

Reiter's syndrome and similar reactive arthropathies with or without urethritis, conjunctivitis, mucocutaneous lesions, and diarrhea occur following enteric infection with *Shigella flexneri*, *Salmonella* species, several serotypes of *Yersinia enterocolitica*, *Campylobacter jejuni*, and also following nongonococcal urethritis or cervicitis. About 65% to 80% of affected individuals are B27+. In these arthropathies, primarily the joints and tendons of the lower extremities and the spine are inflamed, often asymmetrically.

When B27-associated arthropathy affects children, it usually causes asymmetric peripheral arthritis, especially involving the knees or ankles. Some, but not all, of these patients develop ankylosing spondylitis as young adults.

It is assumed that genetic factors independent of the HLA complex partly determine susceptibility to the B27-associated (and other HLA-associated) diseases. In support of this assumption is the recent observation that patients with idiopathic acute anterior uveitis have a high incidence of an uncommon alpha$_1$-antitrypsin phenotype. The coincidence of this phenotype and HLA-B27 in one individual combines two independent risk factors for uveitis.

Diseases associated with HLA-D/DR. As noted earlier, the class II antigens in the mouse have been definitively shown to function as immune response genes. Because human inbred strains are not available, it has been very difficult to confirm the presence of such genes in man. Nonetheless, there is good evidence that D-region-linked genes in man control immune responses to tetanus toxoid, collagen, native DNA, schistosomal cell-wall antigen, ragweed allergen Ra5, streptococcal cell-wall antigen, and influenza virus.

It is reasonable to postulate that diseases associated with D/DR antigens, most of which are thought to be autoimmune, arise at least partly because of the functioning of immune response genes; however, it must be emphasized that this has not been formally demonstrated for any disease except, perhaps, IgE-mediated ragweed allergy.

The haplotype A1, B8, DR3, is associated with a strong antibody response to many antigens, especially viruses, and with a relatively slow clearance of immune complexes. Many diseases of organ-specific autoimmunity are associated with DR3, including gluten-sensitive enteropathy (celiac sprue), dermatitis herpetiformis, chronic active hepatitis, primary Sjogren's syndrome, Addison's disease, Graves' disease, myasthenia gravis, and insulin-dependent diabetes. Antibodies are thought to play a pathogenic role in most of these diseases, but in no case has this been definitely shown. Best studied is probably myasthenia gravis, in which most patients can be shown to have antibodies to the acetylcholine receptor.

(continued on page 5)

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Vice-Mayor Bratton said this ordinance was previously read on first and second reading and would not be reread in its entirety unless there was a specific request to do so.

On a roll call vote of 6-0, Ordinance No. 1526 passed on third and final reading.

Compete text of Ordinance No. 1526 will be found in Ordinance Book No. 10 at Page 287 and 288.

RESOLUTION NO. 85-125 - RESOLUTION AUTHORIZING CITY MANAGER TO SIGN RELEASES IN CONNECTION WITH INSURANCE SETTLEMENTS TO BE PAID TO THE CITY

4. Consideration was given to a resolution authorizing the City Manager to sign releases in connection with insurance settlements to be paid to the City.

Vice-Mayor Bratton said this resolution would authorize the City Manager to sign releases required by insurance companies in connection with settlement payments to be paid by the insurance companies to the City.

Vice-Mayor Bratton said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Boland, seconded by Councilman Price, Resolution No. 85-125 was unanimously adopted.

Complete text of Resolution No. 85-125 will be found in Resolution Book No. 15 at page 268.

RESOLUTION NO. 85-126 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AGREEMENTS WITH THOMPSON-GORDON-SHOOK ENGINEERS, INC. FOR THE REPLACEMENT/REHABILITATION OF THE HAZEL MILL ROAD BRIDGE, MURDOCK AVENUE BRIDGE AND THOMPSON STREET BRIDGE

5. Consideration was given to a resolution authorizing the Mayor to execute agreements with Thompson-Gordon-Shook Engineers, Inc. for the replacement/rehabilitation of the Hazel Mill Road Bridge, Murdock Avenue Bridge and Thompson Street Bridge.

Vice-Mayor Bratton said this resolution will approve acceptance of engineering proposals submitted by Thompson-Gordon-Shook Engineers, Inc. for design of replacement/rehabilitation bridges on Thompson Street, Murdock Avenue and Hazel Mill Road. The amount quoted was $99,900.00 for all three (3) bridges. The high quote received was for $200,000.00 and the low quote was for $20,000.00. Thompson-Gordon-Shook Engineers, Inc. were in the middle price range but their experience in the Federal Aid Bridge Replacement Program was the highest of any other proposal received. Funds in the amount of $618,824.05 remain in the bridge program which is uncommitted at present. The City will receive 80% reimbursement of the committed funds through the Federal Aid Off System Bridge Program. The proposed price of $99,900.00 will have sufficient funds available and will also receive 80% reimbursement through the Federal Aid Off System Bridge Program.

Vice-Mayor Bratton said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Tuesday - July 30, 1985 - 4:00 p.m.

Regular Meeting

Present: Vice-Mayor Wilhelmina Bratton, Presiding; Councilmen Mary Lloyd Frank, Norma T. Price, Gordon Myers, Walter R. Boland, and Louis Bissette; Corporation Counsel William F. Slawter; City Manager Neal Creighton; Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Mayor Larry McDevitt

INVOCATION

The invocation was given by Councilman Walter Boland.

APPROVAL OF THE MINUTES - JULY 23, 1985 MEETING

1. Approval of the minutes of the July 23, 1985 meeting.

Corporation Counsel Slawter requested that Exhibits A-EE, including a letter from Attorney Scott Jarvis containing articles from the Professional Medical Journal relative to H. R. Kuykendall's illness, be included in the minutes of the July 23, 1985 meeting.

Councilman Bissette moved to approve the minutes of the July 23, 1985 meeting incorporating the exhibits requested by Corporation Counsel Slawter. This motion was seconded by Counsilman Frank and carried unanimously.

PROCLAMATION - AUGUST 2-9, 1985 - "ASHEVILLE SWIM-ACROSS WEEK".

2. Vice-Mayor Bratton read a proclamation proclaiming August 2-9, 1985 as "Asheville Swim-Across Week".

Vice-Mayor Bratton presented the proclamation to Mary Ritter, Director of Community Services for the American Red Cross, John Teeter, President and Chairman of the Swim-Across Committee, and John Miall.

ORDINANCE 1526 - AN ORDINANCE AMENDING SECTION 28-81.3 OF ARTICLE IV, SPEED REGULATIONS, CHAPTER 28 OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE

3. Consideration was given to the third reading of Ordinance 1526, an ordinance amending Section 28-81.3 of Article IV, Speed Regulations, of Chapter 28 of the Code of Ordinances of the City of Asheville.

Vice-Mayor Bratton said the Traffic Engineering Division of the Public Works Department has received a request from the Ballantree Homeowners Association to establish a 25 mile per hour speed limit on all streets within the Ballantree Development. The streets affected by this proposed ordinance are: 1) Ballantree Drive (between Sweeten Creek Road and Elmwood Lane; 2) Braddock Way; 3) Campbell Circle; 4) Aspen Way; 5) Gardenwood Drive; 6) Gardenwood Lane; and 7) Elmwood Lane. This ordinance was read on first reading at the June 16, 1985 meeting and on second reading on July 23, 1985.

Residential District to CS Commercial Service District. The property is located on Sweeten Creek Road at Old West Chapel Road. After review and discussion, the Commission voted to recommend to City Council that Ward 7, Sheet 55, Lot 7 be rezoned from R-5 Residential District to CS Commercial Service District.

FISCAL IMPACT: None

B. Schedule a public hearing relative to rezoning property located at 105 Buchanan Avenue for August 13, 1985.

HIGHLIGHTS: The Asheville Planning and Zoning Commission at a meeting held July 10, 1985, considered the petition of Dr. E.B. Crosby, Asheville Hand Center, that Ward 1, Sheet 8, Lot 70, be rezoned from R-3 Residential District to OI Office Institutional District. The property is located at 105 Buchanan Avenue. After review and discussion, the Commission voted to recommend to City Council that Ward 1, Sheet 8, Lot 70, be rezoned from R-3 Residential District to OI Office Institutional District.

FISCAL IMPACT: None

C. Schedule a public hearing relative to rezoning property located behind Ace Applicance on Knight Place for August 13, 1985.

HIGHLIGHTS: The Asheville Planning and Zoning Commission at a meeting held July 10, 1985, considered the petition of Mr. Wayne Smith of Ace Applicance that Ward 5, Sheet 6, Lot 99-1/4, be rezoned from R-3 Residential District to CS Commercial Service District. The property is located behind Ace Applicance on Knight Place. After review and discussion, the Commission voted to recommend to City Council that Ward 5, Sheet 6, Lot 99-1/4 and Lot 99 be rezoned from R-3 Residential District to CS Commercial Service District.

FISCAL IMPACT: None

Upon motion of Councilman Price, seconded by Councilman Myers, the consent agenda was unanimously approved.

RESOLUTION NO. 85-128 - RESOLUTION AUTHORIZING THE VICE-MAYOR TO EXECUTE THE NECESSARY DOCUMENTS FOR EQUIPMENT - PURCHASE AND SECURITY AGREEMENT FOR THE NEW TELEPHONE SYSTEM BY AND BETWEEN THE CITY OF ASHEVILLE AND SOVRAN LEASING CORPORATION

8. Consideration was given to a resolution authorizing the Vice-Mayor to execute the necessary documents for an equipment-purchase and security agreement for the new telephone system by and between the City of Asheville and Sovran Leasing Corporation.

Upon motion of Counilman Frank, seconded by Councilman Price, Resolution No. 85-126 was unanimously adopted.

Complete text of Resolution No. 85-126 will be found in Resolution Book No. 15 at Page 269.

RESOLUTION NO. 85-127 - RESOLUTION AUTHORIZING THE VICE-MAYOR TO EXECUTE ON BEHALF OF THE CITY OF ASHEVILLE A FEDERAL AVIATION GRANT AGREEMENT, PROJECT NO. 3-37-0005-05.

6. Consideration was given to a resolution authorizing the Mayor to execute on behalf of the City of Asheville a Federal Aviation Grant Agreement, Project No. 3-37-0005-05.

Vice-Mayor Bratton said the Federal Aviation Administration has offered a grant agreement dated July 15, 1985 to the Asheville Regional Airport Authority in the amount of Five Hundred Thirty-Five Thousand Four Hundred Sixty-Three and no/100 dollars ($535,463.00). The City of Asheville and the County of Buncombe are sponsors of the agreement. The FAA requires each sponsor to execute said grant agreement. The grant agreement provides for constructing an emergency access road; overlay general aviation apron (37,340 s.y.) and two taxiways (300' x 50' each); expand general aviation apron (7,320 s.y.).

Vice-Mayor Bratton said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Frank, seconded by Councilman Bissette, Resolution No. 85-127 was unanimously adopted.

Complete text of Resolution No. 85-127 will be found in Resolution Book No. 15 at Page 270.

APPROVAL OF THE CONSENT AGENDA

7. Consideration was given to a motion approving the consent agenda.

Vice-Mayor Bratton said the following items are of a routine nature and they have been previously reviewed by the members of the City Council. Therefore, by unanimous vote to approve these items, the City Council may, pursuant to the procedures established in Ordinance No. 1008, adopt all of the items with one motion without the full reading and/or separate motion adopting each individual item. Upon the request of a citizen, a member of the City Council, and/or a member of the City staff, any single item scheduled for approval on the consent agenda may be considered separately.

A. Schedule a public hearing relative to rezoning property located on Sweeten Creek Road at Old West Chapel Road for August 13, 1985.

HIGHLIGHTS: The Asheville Planning and Zoning Commission at a meeting held July 10, 1985, considered the petition of Mr. Eugene M. Carr, Jr. that Ward 7, Sheet 55, Lot 7 be rezoned from R-5

REPORT RELATIVE TO CITY COUNCIL CABLEVISION COMMISSION - DELAYED

Councilman Bissette said the report relative to the City Council Cablevision Commission has been delayed due to an illness contracted by Gary Rowe, a member of the City Council Cablevision Commission. Councilman Bissette said that he expected a report to be given by the Commission in the next couple of weeks.

RALPH BISHOP - REDRESS - LOTTERY SALES

Ralph Bishop again spoke to members of Council relative to his right to seeking redress, relative to lottery sales in the City of Asheville.

ADJOURNMENT

Upon motion of Councilman Myers, seconded by Councilman Bissette, the meeting adjourned at 4:45 p.m.

Gary McHeath
MAYOR

William F. Moseley
CITY CLERK

Vice-Mayor Bratton said this resolution would award the contract for an equipment-purchase and security agreement for the new telephone system for the City of Asheville to Sovran Leasing Corporation.

Upon motion of Councilman Boland, seconded by Councilman Price, Resolution No. 85-128 was unanimously adopted.

Complete text of Resolution No. 85-128 will be found in Resolution Book No. 15 at Page 271.

RESOLUTION NO. 85-129 - RESOLUTION DIRECTING CITY CLERK TO ADVERTISE AN OFFER FOR THE PURCHASE OF CITY-OWNED PROPERTY ON HAYWOOD ROAD KNOWN AS THE OLD WEST ASHEVILLE FIRE STATION

9. Consideration was given to a resolution directing the City Clerk to advertise an offer for the purchase of City-owned property on Haywood Road known as the Old West Asheville Fire Station.

Vice-Mayor Bratton said this resolution would authorize the City Clerk to advertise a notice of the offer received from Gary Newlin and Don R. Cloninger to purchase the property owned by the City of Asheville located on Haywood Road and known as the Old West Asheville Fire Station.

Upon motion of Councilman Myers, seconded by Councilman Frank, Resolution No. 25-129 was unanimously adopted.

Complete text of Resolution No. 85-129 will be found in Resolution Book No. 15 at Page 272.

CLAIMS - FRED NEWTON (SEWER) - WILL RUSSELL HOUSE OF FASHION (SEWER)

The City Manager presented claims received from Fred Newton and Will Russell, House of Fashion.

Vice-Mayor Bratton referred the claims to the Corporation Counsel for investigation and recommendation.

LAWSUITS - VIRGINIA M. TATE AND SUZANNE TATE MORROW VERSUS BOARD OF ADJUSTMENT (APPEAL FROM BOARD OF ADJUSTMENT DECISION)

The City Manager said the City was served with a summons in connection with a lawsuit involving Virginia M. Tate and Suzanne Tate Morrow versus Board of Adjustments regarding an appeal from the Board of Adjustments decision.

Vice-Mayor Bratton referred the summons to the Corporation Counsel for investigation and recommendation.

REQUEST OF COUNCILMAN PRICE - RESOLUTION RELATIVE TO BELE CHERE - AUGUST 6,1985

Councilman Price requested that a resolution of appreciation to the participants of Bele Chere 1985 be on the agenda for August 6, 1985.

Upon motion of Councilman Boland, seconded by Councilman Price, Resolution No. 85-130 was unanimously adopted.

Complete text of Resolution No. 85-130 will be found in Resolution Book No. 15 at page 273.

Mayor McDevitt presented a copy of the resolution to Jim Daniels, Chairman of the Board of Directors for Bele Chere 1985.

RESOLUTION No. 85-131 - RESOLUTION OF APPRECIATION TO MR. J. D. JACKSON, AS 1985 BELE CHERE FESTIVAL CHAIRMAN

3. Consideration was given to a resolution of appreciation to Mr. J. D. Jackson as 1985 Bele Chere Festival Chairman.

Mayor McDevitt read the resolution expressing gratitude and sincere thanks to Mr. J. D. Jackson, Bele Chere Festival Chairman for 1984 and 1985, for his generous contribution of himself to his community and for his outstanding leadership in making Bele Chere 1985 a resounding success.

Upon motion of Vice-Mayor Bratton, seconded by Councilman Frank, Resolution No. 85-131 was unanimously adopted.

Complete text of Resolution No. 85-131 will be found in Resolution Book No. 15 at page 274.

Mayor McDevitt presented the resolution to Mr. Jim Daniels requesting that he forward this resolution to Mr. Jackson.

PUBLIC HEARING - SITE PLAN OF THE PROPOSED "BELVEDERE CONDOMINIUMS" - BEAVERDAM ROAD

4. A public hearing was held relative to the site plan of the proposed "Belvedere Condominiums" to be located on Beaverdam Road.

Mayor McDevitt said the Asheville Planning and Zoning Commission at a meeting held July 10, 1985, reviewed the site plan of the proposed "Belvedere Condominiums" to be located on Beaverdam Road. The site plan was prepared by McGill Associates, Engineers, for Condominium Builders, Inc., Winston-Salem, N. C., Developer, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of the site plan to City Council subject to final approval of the driveway cut by the North Carolina Department of Transportation, compliance with the Erosion Control Ordinance, and contingency that water and sewer are available to the site.

Mayor McDevitt opened the public hearing at 4:15 p.m.

The City Clerk presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said this project would consist of 42 units. He said the entrance/exit to the project would be one way onto Beaverdam Road. He said the developers will have to be careful with erosion due to the steep grades being involved in the project. He said the roads will

Tuesday - August 6, 1985 - 4:00 p.m.

Regular Meeting

Present: Mayor Larry McDevitt, Presiding; Vice-Mayor Wilhelmina Bratton; Councilmen Mary Lloyd Frank, Norma T. Price, Gordon Myers, Walter R. Boland; Corporation Counsel William F. Slawter; City Manager Neal Creighton; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Councilman Louis Bissette

INVOCATION

The invocation was given by Councilman Norma Price.

APPROVAL OF THE MINUTES - JULY 30, 1985 MEETING

1. Approval of the minutes of the July 30, 1985 meeting.

Councilman Price moved that the minutes of the July 23, 1985, and July 30, 1985, meetings of the Asheville City Council be amended to include the following:

At the regular meeting of the Asheville City Council on July 30, 1985, the minutes of the July 23, 1985 meeting with regard to the appeal of H. R. Kuykendall were amended so as to provide that Exhibits A through EE, being documents from Mr. Kuykendall's Police Pension File, be attached to the minutes. A list of said Exhibits along with copies of the Exhibits have been attached to the minutes of the July 23, 1985, meeting. In addition, Mr. Kuykendall's Attorney, Scott Jarvis, sent to the City Attorney a letter dated July 29, 1985, attaching three articles from the Professional Medical Journal as identified in said letter. A copy of said letter and the three Professional Medical Journal Articles have also been attached to the minutes of the July 23, 1985 meeting.

This motion was seconded by Councilman Frank, and carried unanimously.

Upon motion of Councilman Price, seconded by Councilman Myers, the minutes of the July 30, 1985 meeting were approved as amended.

RESOLUTION NO. 85-130 - RESOLUTION OF APPRECIATION TO THE BOARD OF DIRECTORS, VOLUNTEERS, AND THE STAFF OF BELE CHERE 1985

2. Consideration was given to a resolution of appreciation to the Board of Directors, Volunteers, and Staff of Bele Chere 1985.

Mayor McDevitt read the resolution expressing gratitude and appreciation to the 1985 Bele Chere Board of Directors; Leslie Anderson, Coordinator of the Festival; Ray Kisiah, Director; and the Staff of the Department of Parks, Recreation and Public Facilities; the Staff of other City departments who worked cooperatively with and during the festival; the many sponsors of and contributors to Bele Chere 1985, and all of the approxiately 500 individuals who volunteered their time and talents to make the 1985 Bele Chere Festival a truly outstanding event for the City of Asheville.

Two of the Hazelwood Subdivision is to be located on North Louisiana Avenue. This plat was prepared by S. V. Griffith, R.L.S. for Frank McGahren and Walter Weiss, Developers, and submitted in accordance with Ordinance #424, as amended.

Mayor McDevitt opened the public hearing at 4:27 p.m.

The City Clerk presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said Phase Two of the Hazelwood Subdivision would add 34 lots to the development.

Mayor McDevitt closed the public hearing at 4:28 p.m.

Councilman Boland moved to approve the final plat of Phase Two of the Hazelwood Subdivision to be located on North Louisiana Avenue, subject to the recommendations of the Planning and Zoning Commission, that buffering on Lots 36 through 47 be required and compliance with the Erosion Control Ordinance. This motion was seconded by Vice-Mayor Bratton, and carried unanimously.

RESOLUTION NO. 85-132 - RESOLUTION AUTHORIZING THE MAYOR, ON BEHALF OF THE CITY OF ASHEVILLE, TO EXECUTE AN AGREEMENT BY AND BETWEEN THE CITY OF ASHEVILLE AND HAYWOOD STREET REDEVELOPMENT CORPORATION FOR A REDEVELOPMENT PROJECT IN THE HAYWOOD STREET REDEVELOPMENT AREA

7. Consideration was given to a resolution authorizing the Mayor, on behalf of the City of Asheville, to execute an agreement by and between the City of Asheville and Haywood Street Redevelopment Corporation for a redevelopment project in the Haywood Street Redevelopment Area.

Mayor McDevitt said this resolution would authorize the Mayor to execute an agreement by and between the City of Asheville and Haywood Street Redevelopment Corporation for a redevelopment project in the Haywood Street Redevelopment area. This rehabilitation project is for the buildings known as the old Ivey's building and the old Starnes and Haywood buildings in downtown Asheville. This agreement will provide $4.5 million in downtown redevelopment. City expenditures for public improvements will not exceed $320,000. Funding will be provided from a variety of sources earmarked for downtown redevelopment.

Mayor McDevitt said members of Council were previously furnished copies of the resolution and it would not be read in its entirety.

Bill Johnson, a partner in the Haywood Street Redevelopment Corporation, thanked members of Council and City staff for and for their efforts in reaching the point of an agreement by and between the City of Asheville and the Haywood Street Redevelopment Corporation.

Chuck Tessier said one of the projects involved in the Haywood Street Redevelopment area already under construction involves the Haywood Park Hotel in the old Ivey's building at the corner of Haywood Steet and Battery Park Avenue. He said the Haywood Street Redevelopment Corporation is headed by Robert D. Armstrong and W. R. Johnson. He said the project will be expanded to include the Haywood and Starnes building which will contain a retail and office

be private and the developers will be responsible for maintenance of the road. He said fire hydrants for the project had been approved by the Fire Prevention Bureau.

Mayor McDevitt closed the public hearing at 4:20 p.m.

Vice-Mayor Bratton moved to approve the site plan of the proposed "Belvedere Condominiums" to be located on Beaverdam Road subject to the recommendations of the Planning and Zoning Commission. This motion was seconded by Councilman Frank and carried unanimously.

PUBLIC HEARING - SITE PLAN OF THE PROPOSED "HAZELWOOD MOBILE HOME COURT" - NORTH LOUISIANA AVENUE

5. A public hearing was held relative to the site plan of the proposed "Hazelwood Mobile Home Court" to be located on North Louisiana Avenue.

Mayor McDevitt said the Asheville Planning and Zoning Commission at a meeting held April 3, 1985, reviewed the site plan of the proposed "Hazelwood Mobile Home Court" to be located on North Louisiana Avenue. The site plan was prepared by Associated Land Technologies, Engineer, for Walter Weiss and Frank McGahren (W & M Investment), Developers, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of the site plan to City Council subject to the 6-inch water line being extended to fire hydrant, buffering along adjacent subdivision lots, no extension of roads into subdivision, and compliance with the Erosion Control Ordinance.

Mayor McDevitt opened the public hearing at 4:21 p.m.

The City Clerk presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said the project would consist of 57 lots. He said the Planning and Zoning Commission's recommendation of approval was subject to a 6-inch water line being extended to a fire hydrant, heavy buffering along adjacent subdivision lots, and no extension of roads into the subdivision, and compliance with the Erosion Control Ordinance.

Mayor McDevitt closed the public hearing at 4:26 p.m.

Councilman Price moved to approve the site plan of the proposed "Hazelwood Mobile Home Court" to be located on North Louisiana Avenue, subject to the recommendations of the Planning and Zoning Commission. This motion was seconded by Councilman Frank, and carried unanimously.

PUBLIC HEARING - FINAL PLAT OF PHASE TWO OF THE HAZELWOOD SUBDIVISION - NORTH LOUISIANA AVENUE

6. A public hearing was held relative to the final plat of Phase Two of the Hazelwood Subdivision to be located on North Louisiana Avenue.

Mayor McDevitt said the Asheville Planning and Zoning Commission at a meeting held April 3, 1985, approved the preliminary plat subject to buffering on Lots 36 through 47 and compliance with the Erosion Control Ordinance. Phase

Complete text of Resolution No. 85-133 will be found in Resolution Book No. 15 at page 276.

RESOLUTION NO. 85-134 - RESOLUTION REQUESTING THE HOUSING AUTHORITY OF THE CITY OF ASHEVILLE TO CONSIDER AND TO ADOPT A RESOLUTION OF INTENT TO ISSUE URBAN REDEVELOPMENT BONDS IN THE AMOUNT OF TWO MILLION DOLLARS FOR THE OLD ASHEVILLE HOTEL PROJECT

9. Consideration was given to a resolution requesting the Housing Authority of the City of Asheville to consider and to adopt a resolution of intent to issue urban redevelopment bonds in the amount of two million dollars for the Old Asheville Hotel Project.

Mayor McDevitt said this resolution is requesting the Housing Authority of the City of Asheville to consider and to adopt on or about September 1, 1985 a resolution of intent to issue urban redevelopment bonds in an amount not to exceed two million dollars for the Old Asheville Hotel Project.

Mayor McDevitt said members of Council were previously furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Frank, seconded by Councilman Boland, Resolution No. 85-134 was unanimously adopted.

Complete text of Resolution No. 85-134 will be found in Resolution Book No. 15 at page 277.

RESOLUTION NO. 85-135 - RESOLUTION REQUESTING THE HOUSING AUTHORITY OF THE CITY OF ASHEVILLE TO CONSIDER AND TO ADOPT A RESOLUTION OF INTENT TO ISSUE URBAN REDEVELOPMENT BONDS IN THE AMOUNT OF FOUR MILLION DOLLARS FOR THE HAYWOOD STREET REDEVELOPMENT CORPORATION REDEVELOPMENT PROJECT

10. Consideration was given to a resolution requesting the Housing Authority of the City of Asheville to consider and to adopt a resolution of intent to issue urban redevelopment bonds in the amount of four million dollars for the Haywood Street Redevelopment Corporation Redevelopment Project.

Mayor McDevitt said this resolution requests the Housing Authority of the City of Asheville to consider and to adopt on or about September 1, 1985, a resolution of intent to issue urban redevelopment bonds in an amount not to exceed four million dollars for the Haywood Street Redevelopment Project.

Mayor McDevitt said members of Council were previously furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Boland, seconded by Councilman Price, Resolution No. 85-135 was unanimously adopted.

Complete text of Resolution No. 85-135 will be found in Resolution Book No. 15 at page ~~276~~ 277.

complex to include a 200 space private parking deck at the rear of the Haywood building. He said the City's role in this project will be to make public improvements to the alley behind these buildings and on Haywood Street, from College Street to Pack Library, including new paving, signs, lighting, streets, landscaping and underground facilities.

Upon inquiry of Ralph Bishop, Mayor McDevitt said the cost to the City would not be in excess of $320,000.

Upon motion of Councilman Boland, seconded by Councilman Frank, Resolution 85-132 was unanimously adopted.

Complete text of Resolution No. 85-132 will be found in Resolution Book No. 15 at page 275.

RESOLUTION NO. 85-133 - RESOLUTION AUTHORIZING THE MAYOR, ON BEHALF OF THE CITY OF ASHEVILLE, TO EXECUTE AN AGREEMENT BY AND BETWEEN THE CITY OF ASHEVILLE AND STEITLER-TESSIER AND ASSOCIATES, INC. FOR A REDEVELOPMENT PROJECT IN THE HAYWOOD STREET REDEVELOPMENT AREA

8. Consideration was given to a resolution authorizing the Mayor, on behalf of the City of Asheville, to execute an agreement by and between the City of Asheville and Steitler-Tessier and Associates, Inc. for a redevelopment project in the Haywood Street Redevelopment Area.

Mayor McDevitt said this resolution would authorize the Mayor to sign an agreement by and between Steitler-Tessier and Associates, Inc., and the City of Asheville for a redevelopment project in the Haywood Street Redevelopment Area. This project is at the old Asheville Hotel property on the corner of Walnut Street and Haywood Street. This agreement will provide for $2.5 million in downtown redevelopment. City expenditures will not exceed $10,000 and the improvements will be included in the Public Works, Street Division budget.

Mayor McDevitt said members of Council were previously furnished copies of the resolution and it would not be read in its entirety.

Mr. Tessier introduced the project stating that it would involve the Schulman building, formerly the old Asheville Hotel, at the corner of Haywood and Walnut Street. He said this would be developed by Steitler-Tessier and Associates, Inc. and the building will be transformed to a Bed and Breakfast Inn with a restaurant and lounge, retail space and additional parking. He said this would include a second Inn which will have 40 rooms, a restaurant and lounge, several shops and a balcony overlooking the street that will be used for breakfast in the morning and cocktails in the evening. He said the aluminum facade that now covers the front of the building will be removed and the original brick restored. He said the two projects, combined with the improvements of the City is committed to making, are geared to draw people to the area during the day and the night.

Upon inquiry of Ralph Bishop, Mayor McDevitt said the City's role in this project will include providing an access to the Civic Center Parking Garage in the amount of $10,000.

Upon motion of Councilman Frank, seconded by Councilman Price, Resolution No. 85-133 was unanimously adopted.

SCHEDULING PUBLIC HEARING - EXTENDING PRESENT MORATORIUM IN THE HAW CREEK AREA

Councilman Price moved to schedule a public hearing relative to extending the present moratorium in the Haw Creek Area for August 20, 1985. This motion was seconded by Councilman Frank and carried unanimously.

INQUIRY BY BOB MILLER - DOWNTOWN REDEVELOPMENT - OLD BON MARCHE' AND OLD PENNEY'S BUILDING

Upon inquiry of Bob Miller relative to steps being taken to revitalize the Old Bon Marche' and Old Penny's buildings on Haywood Street in downtown Asheville, Mayor McDevitt said the City is taking certain statutory steps in this regard. He requested that Mr. Miller talk with the City Manager about this proposed project.

DECISION RELATIVE TO H. R. KUYKENDALL APPEAL

Mayor McDevitt requested since he and Councilman Myers were absent during the appeal of H. R. Kuykendall upon advice of the Corporation Counsel Slawter, that they be excused from participation and vote on this issue.

Councilman Price moved to excuse Mayor McDevitt and Councilman Myers from participating and voting on the H. R. Kuykendall appeal. This motion was seconded by Councilman Boland and carried unanimously.

Councilman Boland moved that Mr. Kuykendall's appeal from the Board of Trustees of the Asheville Police Pension Board be denied based on the following Findings of Fact and Conclusions of Law;

FINDINGS OF FACT

1. Hartman R. Kuykendall was employed by the Asheville Police Department from November 5, 1966, through October 26, 1979.

2. While in the course of his duties as a police officer on August 31, 1969, Mr. Kuykendall was struck by an automobile and sustained an injury to his back.

3. Said injury did not result in surgery, Mr. Kuykendall being diagnosed by Dr. R. Joe Burleson as having cervical spine strain and being assessed a fifteen percent (15%) permanent partial disability of the cervical spine and ten percent (10%) permanent partial disability of the lumbar spine.

4. Mr. Kuykendall thereafter continued his employment with the Asheville Police Department working as a City jailer, a dispatcher, vehicle maintenance coordinator, taxi inspector and building maintenance coordinator.

5. On July 20, 1979, while working as building maintenance coordinator in the Asheville Police Department, Mr. Kuykendall again injured his back while in the process of moving a counter.

6. Mr. Kuykendall continued to work on the date of said injury and sought medical treatment for his injury three (3) days later.

RESOLUTION NO. 85-136 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A LEASE BY AND BETWEEN THE CITY OF ASHEVILLE AND THE CITY OF ASHEVILLE BOARD OF ALCOHOLIC CONTROL FOR A RETAIL OUTLET STORE AT THE CORNER OF SOUTH CHARLOTTE STREET AND BILTMORE AVENUE

11. Consideration was given to a resolution authorizing the City Manager to execute a lease by and between the City of Asheville and the City of Asheville Board of Alcoholic Control for a retail outlet store at the corner of South Charlotte Street and Biltmore Avenue.

Mayor McDevitt said the City of Asheville owns property at the northeast corner of Biltmore Avenue and South Charlotte Street. The City does not need to use this property at this time and desires to enter into a lease of the property with the City of Asheville Board of Alcoholic Control. The Board of Alcoholic Control needs to relocate its outlet store presently located in the Pack Plaza Redevelopment Area. Revenues will be six thousand dollars ($6,000) per annum for the first five (5) years. For each subsequent five year period, the rent shall be adjusted upward based on the total increase in the Consumer Price Index for the entire prior five (5) year period with such increase measured at each five (5) year anniversary date of the lease term.

Mayor McDevitt said members of Council were previously furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Frank, seconded by Councilman Myers, Resolution No. 85-136 was unanimously adopted.

Complete text of Resolution No. 85-136 will be found in Resolution Book No. 15 at page ~~279.~~ 278 mon

RESOLUTION NO. 85-137 - RESOLUTION AUTHORIZING THE PURCHASING DIRECTOR TO SELL SURPLUS PROPERTY AT PUBLIC AUCTION

12. Consideration was given to a resolution authorizing the Purchasing Director to sell surplus property at public auction.

Mayor McDevitt said N. C. Stat. sec 160A-270 provides for the sale of surplus property at public auction. Various City departments have items which are surplus. This resolution will authorize the Purchasing Director to sell these items at a public auction. Sale of surplus property will generate expected revenues of $6,000, which is not currently budgeted.

Mayor McDevitt said the auction would take place at the old Vehicle Maintenance Facility located on the Hunt Place beginning at 10:00 a.m. on Saturday, August 24, 1985.

Mayor McDevitt said members of Council were previously furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Price, seconded by Councilman Frank, Resolution No. 85-137 was unanimously adopted.

Complete text of Resolution No. 85-137 will be found in Resolution Book No. 15 at page ~~280.~~ 279 mon

Mayor McDevitt informed Mr. Bishop that he would get this information relative to Mrs. Hudson's being bonded and give this information to him at the next meeting.

ADJOURNMENT

Upon motion of Councilman Frank, seconded by Councilman Price the meeting adjourned at 5:40 p.m.

MAYOR

CITY CLERK

7. Mr. Kuykendall continued to work through October 26, 1979.

8. On October 31, 1979, Mr. Kuykendall was admitted to Memorial Mission Hospital whereupon he was diagnosed by Dr. William F. Wilson as having HLA-B27 syndrome.

9. Mr. Kuykendall has not worked since October 26, 1979, in the Asheville Police Department.

10. Mr. Kuykendall has been diagnosed by Dr. Louis C. Waller as being permanently and totally disabled as a result of the HLA-B27 syndrome.

11. Mr. Kuykendall has been diagnosed by Dr. David L. Cappiello, as of March 30, 1981, as having zero percent (0%) disability and capable of returning to work.

12. If Mr. Kuykendall is disabled from performing his duties as a policeman, said disability is due to the HLA-B27 syndrome.

CONCLUSIONS OF LAW

The HLA-B27 syndrome affecting Mr. Kuykendall's physical condition is not the natural and proximate result of an accident occurring while in the actual performance of duty as a member of the Asheville Police Department at some definite time and place as required by Section 9 of Chapter 429 of the 1979 North Carolina Session Laws in order to entitle Mr. Kuykendall to in-line-of-duty disability benefits.

This motion was seconded by Councilman Frank, and carried unanimously on a 4-0 vote.

Mr. Kuykendall thanked members of Council for their time and said that his attorney would be in touch with members of Council.

Corporation Counsel Slawter said that Mr. Kuykendall's attorney, Mr. Scott Jarvis, had contacted him, and said he would not be present for the decision of Mr. Kuykendall's appeal today but did wish that the decision be announced even though he was not present at the meeting.

CLAIMS - MRS. G. WILLIAMSON (SEWER) - SHARON RUFF (WATER)

The City Manager presented claims received from Mrs. G. Williamson and Sharon Ruff.

Mayor McDevitt referred the claims to the Corporation Counsel for investigation and recommendation.

RALPH BISHOP - RIGHT OF REDRESS - OBTAINING PUBLIC RECORDS

Ralph Bishop spoke to members of Council relative to his right to seek redress from members of Council, and also requested information relative to Lla Leet Hudson, in the Management Services Division, as to whether or not she is bonded by the City.

Councilman Boland moved for the adoption of Ordinance No. 15-28. This motion was seconded by Councilman Price.

On a roll call vote of 6-0, Ordinance No. 1528 passed on first reading.

PUBLIC HEARING - REZONING PROPERTY LOCATED AT 105 BUCHANAN AVENUE

ORDINANCE NO. 1529 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED - PROPERTY LOCATED AT 105 BUCHANAN ROAD (DR. E.B. CROSBY PETITION)

3. A public hearing was held relative to rezoning property located at 105 Buchanan Avenue.

Mayor McDevitt said the Asheville Planning and Zoning Commission at a meeting held July 10, 1985, considered the petition of Dr. E. B. Crosby, Asheville Hand Center, that Ward 1, Sheet 8, Lot 70, be rezoned from R-3 Residential District to OI Office Institutional District. The property is located at 105 Buchanan Avenue. After review and discussion, the Commission voted to recommend to City Council that Ward 1, Sheet 8, Lot 70, be rezoned from R-3 Residential District to OI Office Institutional District.

Mayor McDevitt opened the public hearing at 4:12 p.m.

The City Clerk presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said the purpose of the rezoning is to expand an existing building for the Asheville Hand Center.

Upon inquiry of Councilman Bissette, Mr. Emrick said no opposition had been received relative to the rezoning.

Mayor McDevitt closed the public hearing at 4:15 p.m.

Mayor McDevitt said members of Council were furnished copies of the ordinance and it would not be read in its entirety.

Councilman Bissette moved for the adoption of Ordinance No. 1529. This motion was seconded by Councilman Frank.

On a roll call vote of 6-0, Ordinance No. 1529 passed on first reading.

PUBLIC HEARING - REZONING PROPERTY LOCATED BEHIND ACE APPLIANCE ON KNIGHT PLACE

4. A public hearing was held relative to rezoning property located behind Ace Appliance on Knight Place.

Mayor McDevitt said the Asheville Planning and Zoning Commission at a meeting held July 10, 1985, considered the petition of Mr. Wayne Smith of Ace Appliance that Ward 5, Sheet 6, Lot 99½, be rezoned from R-3 Residential District to CS Commercial Service District. The property is located behind Ace Appliance on Knight Place. After review and discussion, the Commission voted to recommend to City Council that Ward 5, Sheet 6, Lot 99½ and Lot 99 be rezoned from R-3 Residential District to CS Commercial Service District.

Tuesday - August 13, 1985 - 4:00 p.m.

Regular Meeting

Present: Mayor Larry McDevitt, Presiding; Vice-Mayor Wilhelmina Bratton; Councilmen Mary Lloyd Frank, Norma T. Price, Walter R. Boland, and Louis Bissette; Acting Corporation Counsel Patsy Brison; City Manager Neal Creighton; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Councilman Gordon Myers (arriving later in meeting); Corporation Counsel William F. Slawter.

INVOCATION

The invocation was given by Councilman Norma Price.

APPROVAL OF THE MINUTES - AUGUST 6, 1985 MEETING

1. Approval of the minutes of the August 6, 1985 meeting.

Mayor McDevitt announced the approval of the minutes as submitted.

PUBLIC HEARING - REZONING PROPERTY - SWEETEN CREEK ROAD AT OLD WEST CHAPEL ROAD

ORDINANCE NO. 1528 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED - PROPERTY LOCATED ON SWEETEN CREEK ROAD AT OLD WEST CHAPEL ROAD (EUGENE CARR PETITION)

2. A public hearing was held relative to rezoning property located on Sweeten Creek Road at Old West Chapel Road.

Mayor McDevitt said the Asheville Planning and Zoning Commission at a meeting held July 19, 1985, considered the petition of Mr. Eugene M. Carr, Jr., that Ward 7, Sheet 55, Lot 7 be rezoned from R-5 Residential District to CS Commercial Service District. The property is located on Sweeten Creek Road at Old West Chapel Road. After review and discussion, the Commission voted to recommend to City Council that Ward 7, Sheet 55, Lot 7 be rezoned from R-5 Residential District to CS Commercial Service District.

Mayor McDevitt opened the public hearing at 4:08 p.m.

The City Clerk presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said the lot requested to be rezoned joins the English Lumber Company. He said Mr. Carr wishes to use this property for his business.

Upon inquiry of Councilman Bissette, Mr. Emrick said no opposition had been received relative to the rezoning.

Mayor McDevitt said members of Council were furnished copies of the ordinance and it would not be read in its entirety.

Mayor McDevitt closed the public hearing at 4:11 p.m.

Acting Corporation Counsel Patsy Brison said since the petitioner withdrew the rezoning request, no action would be required by Council.

RESOLUTION NO. 85-138 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A DEED OF CORRECTION WITH THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION

5. Consideration was given to a resolution authorizing the Mayor to execute a Deed of Correction with the North Carolina Department of Transporation.

Mayor McDevitt said in 1979, the North Carolina Department of Transportation conveyed a utility easement to the City of Asheville across property acquired from William Quarterman. However, by mutual mistake, the Deed of Easement conveyed the entire roadway excepting for N.C. DOT limited roadway rights for ingress and egress to the DOT Resident Engineer's office. The Deed of Correction will correct the scope of the easement to reflect the intentions of the parties and will also allow the City access to the roadway for use as a fire lane.

Mayor McDevitt said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Price, seconded by Councilman Boland, Resolution No. 85-138 was unanimously adopted.

Complete text of Resolution No. 85-138 will be found in Resolution Book No. 15 at page ~~281~~ 280 and ~~282~~ 281.

PRESENTATION BY RETIRED POLICE OFFICERS

6. Captain John Best, retired Police Officer, speaking on behalf of the retired Police Officers, requested that Council initiate a cost of living raise for all retired Police Officers. He said it was his understanding that the General Assembly had adopted legislation amending the Police Pension Law that would allow the City Council to implement a cost of living raise for retired Police Officers. He said if his calculations were correct, there should be approximately $4,000,000 in the Police Pension Fund.

Mayor McDevitt advised Captain Best that the City Council would take their request under advisement.

RESOLUTION NO. 85-139 - RESOLUTION ADOPTING MINORITY AND WOMEN ECONOMIC ENTERPRISE PROGRAM FOR THE CITY OF ASHEVILLE

7. Consideration was given to a resolution adopting Minority and Women Economic Enterprise Program for the City of Asheville.

Mayor McDevitt said the Minority and Women Economic Enterprise project is designed to affirm the City's active concern and support for the inclusion and economic participation of these groups in the City's purchasing, contracting and procurement programs.

Mayor McDevitt said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Mayor McDevitt opened the public hearing at 4:17 p.m.

The City Clerk presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, presented the following letter from Wayne E. Smith, Vice-President of Ace Appliance Company, withdrawing the rezoning request:

August 7, 1985

Honorable Mayor and Members
of the City Council
City Hall
Asheville, N.C. 28807

RE: Rezoning Petition -
Mr. Wayne Smith

Dear Mayor and Members of the Council:

The Asheville Planning and Zoning Commission at a meeting held July 10, 1985 considered the petition of Mr. Wayne Smith of Ace Appliance Company that Ward 5, Sheet 6, Lot 99¼ be rezoned from R-3 Residential District to CS Commercial Service District. The property is located behind Ace Appliance on Knight Place.

After review and discussion, the Commission voted to recommend to City Council that Ward 5, Sheet 6, Lot 99¼ and Lot 99 be rezoned from R-3 Residential District to CS Commercial Service District.

Concerning the property discussed above, the Zoning Board approved this with Ace Appliance Company being the new owner of the lot, and with Ace Appliance using the entrance of our parking lot as access to this lot, to which we agreed.

Unfortunately, the owners of the lot, after agreeing to sell it to us at a set price, have since changed their minds. Since we will not be the owners of the lot, we know that the new owners would have to use Knight Place (which is a very dangerous road) for their access. We hereby ask the Council to please remove our petition for rezoning and to leave the property zoned as R-3 Residential District. Any new owners would then need to repetition for rezoning to Commercial. We understand that your formal decision will be announced at your next meeting to be held on Monday, August 12, 1985.

Thank you for your help and consideration in this matter.

Sincerely yours,

Wayne E. Smith
Vice President

CLAIMS - KEN CURTIS (SEWER) - RODNEY WILSON (WATER) - KENNY HAYES (SEWER) - MAXINE DEBRUHL (SEWER) - DALLAS DEAN GARDNER (WATER) - WILLIE MCKNIGHT (PARKS)

The City Manager presented claims received from Ken Curtis, Rodney Wilson, Kenny Hayes, Maxine DeBruhl, Dallas Dean Gardner, and Willie McKnight

Mayor McDevitt referred the claims to the Corporation Counsel for investigation and recommendation.

RESPONSE RELATIVE TO RALPH BISHOP'S QUESTION OF AUGUST 6, 1985, RELATIVE TO CITY EMPLOYEES BEING BONDED

Mayor McDevitt, in response to an inquiry of Ralph Bishop on August 6, 1985, said that General Statutes 159-29 requires the City of Asheville to have fidelity bonds on all City employees. He said the City of Asheville has a general blanket bond on all City employees, full-time and part-time, in the amount of $25,000 pursuant to said statute. He said there is an individual bond in the amount of $100,000 on the Director of Finance. He said the City of Asheville also has an insurance policy to cover City employees for wrongful acts in the amount of $1,000,000.

ADJOURNMENT TO EXECUTIVE SESSION

Upon motion of Councilman Bissette, seconded by Councilman Boland, the meeting adjourned into Executive Session at 4:40 p.m.

MAYOR

CITY CLERK

Marvin Vierra, Director of Community Development, said this resolution would be a statement or policy by the City Council to provide minorities and women equal opportunity to participate in all aspects of City contracting and purchasing programs. He said this would also set the policy of the City of Asheville to prohibit discrimination against any person or business in pursuit of these opportunities on the basis of race, color, sex, religion or national origin and to conduct its contracting and purchasing programs so as to prevent such discriminations. He said the City would be actively seeking and identifying qualified minority and women business enterprises to offer them the opportunity to participate as providers of goods and services to the City. He said this program would also establish a committee to help improve business conducted with minority and women business enterprises. He requested that Exhibit 2 of the proposed program be deleted, being a list of minority and women businesses in the City of Asheville. He said the list is not complete and the committee and City staff would establish a more complete list within the next six months.

Logan Delany, former Community Development Director, spoke in support of the program.

Upon motion of Vice-Mayor Bratton, seconded by Councilman Frank, Resolution No. 85-139 was unanimously adopted.

Complete text of Resolution No. 85-139 will be found in Resolution Book No. 15 at page ~~283~~ 282 more.

RESOLUTION NO. 85-140 - RESOLUTION DIRECTING THE CITY CLERK TO ADVERTISE AN OFFER FOR THE PURCHASE OF CITY-OWNED PROPERTY LOCATED ON FANNING BRIDGE ROAD

8. Consideration was given to a resolution directing the City Clerk to advertise an offer for the purchase of City-owned property located on Fanning Bridge Road.

Mayor McDevitt said the City has received an offer for the purchase of a tract of land containing 16.4 acres located east of the intersection of Fanning Bridge Road and Asheville Airport Road. He said the offer is in the amount of $18,000 per acre and was accompanied by a 5% bid deposit received by the City Clerk. He said this resolution would authorize the City Clerk to advertise said offer and a notice that within ten days any person may raise the bid not less than 10% of the first $1,000 and 5% of the remainder of the bid and a statement that the City Council of the City of Asheville reserves the right to reject any and all offers at any time with bid deposits returned to the bidder.

Councilman Myers took his seat at 4:30 p.m.

Mayor McDevitt said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Frank, seconded by Councilman Bissette, Resolution No. 85-140 was unanimously adopted.

Complete text of Resolution No. 85-140 will be found in Resolution Book No. 15 at page ~~284~~ 283 more.

a state moratorium on additional sewer hookups in a portion of the Haw Creek area expires on Janury 1, 1986. He said the Planning and Zoning Commission would be having a work session with the Haw Creek Homeowners Association on August 21, 1985 relative to long-range planning for the Haw Creek area.

Roy Smucker, 6 Oak Drive, spoke in support of extending the moratorium in the Haw Creek area. He said the original reasons for imposing the moratorium are still valid.

Ed Dyson, with the Haw Creek Homeowners Association, said the members of the Association have worked to correct many problems in the Haw Creek area relative to traffic, sewer, roads, etc. He said their main interest is in future developments and protection of the neighborhood. He said the majority of the residents in Haw Creek feel that the current zoning ordinance is too restrictive or too vulnerable for their area. He said after working with the Planning and Zoning Commission, the Homeowner's Association has presented a plan for a R-2A Zoning Classification. He said the Association has checked with the State and other cities relative to a new zoning designation. He said the State has assured them that there would be no problems in a new zoning district and this would not create spot zoning. He said the City of Asheville needs to develop a means of protecting neighborhoods. He said the Alternatives for Asheville Committee would be presenting a plan, but there was no assurance that the plan will be acted upon. He said the residents of Haw Creek are in favor of an extension of the present moratorium for sixty to ninety days, but felt that Council should act on establishing an additional zoning district for Haw Creek. He said the residents would be opposed to extending the moratorium until January 1, 1986 since there would be a new City Council elected in November and those members would have to be re-educated about the problems in Haw Creek.

Upon inquiry of Mayor McDevitt, Corporation Counsel Slawter said members of Council could consider zoning amendments during the time the moratorium is in effect.

Councilman Bissette also noted that Council could rescind the moratorium at any time if problems were worked out prior to January 1, 1986.

Councilman Price requested that the Planning staff give members of Council an official status report on Haw Creek improvements in sixty days, or by the middle of October, 1985.

Mayor McDevitt closed the public hearing at 4:33 p.m.

Mayor McDevitt said members of Council were furnished copies of the ordinance and it would not be read in its entirety.

Councilman Bissette moved for the adoption of Ordinance No. 1530. This motion was seconded by Councilman Price and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1530 passed on first reading.

Councilman Frank moved to suspend the rules and proceed to the second reading of Ordinance No. 1530. This motion was seconded by Councilman Price and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1530 passed on second reading.

Tuesday - August 20, 1985 - 4:00 p.m.

Regular Meeting

Present: Mayor Larry McDevitt, Presiding; Vice-Mayor Wilhelmina Bratton; Councilmen Mary Lloyd Frank, Norma T. Price, Gordon Myers, and Louis Bissette; Corporation Counsel William F. Slawter; City Manager Neal Creighton; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Councilman Walter Boland.

INVOCATION

The invocation was given by Mayor McDevitt.

APPROVAL OF THE MINUTES - AUGUST 13, 1985 MEETING

1. Approval of the minutes of the August 13, 1985 meeting.

Mayor McDevitt announced the approval of the minutes as submitted.

PROCLAMATION - AUGUST 26, 1985 - "WOMEN'S EQUALITY DAY"

2. Mayor McDevitt read a proclamation proclaiming August 26, 1985 as "Women's Equality Day".

Mayor McDevitt presented the proclamation to Sandra T. Wisniewski, Regional Coordinator for the Council on the Status of Women, Mrs. James, Mrs. Ruth Brandon, Julie Cogburn, and Florence Ryan.

Sandra Wisniewski invited all members of Council to the "Women's Equality Day" celebration on Monday, August 26, 1985 from 12:00 noon until 1:00 p.m. on the City/County Plaza.

PUBLIC HEARING - EXTENDING MORATORIUM - HAW CREEK AREA

ORDINANCE No. 1530 - AN ORDINANCE AMENDING ORDINANCE NO. 1519 EXTENDING THE MORATORIUM LIMITING DEVELOPMENT IN THE HAW CREEK AREA

3. A public hearing was held relative to extending the present moratorium in the Haw Creek area.

Mayor McDevitt opened the public hearing at 4:12 p.m.

The City Clerk presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said the Planning and Zoning Commission has been studying the problem of overtaxed sewer lines, streets and other parts of the infrastructure in the Haw Creek community in an effort to recommend a plan for future development in the area. He said the Alternatives for Asheville Committee is examining the potential for additional development and will make a recommendation as part of a comprehensive plan for the City. He said, in that regard, the Planning and Zoning Commission had recommended that the current moratorium be extended until

ORDINANCE NO. 1531 - AN ORDINANCE AMENDING SECTION 28-81.3, 28-82 AND 28-82.1 OF ARTICLE IV, SPEED REGULATIONS, OF CHAPTER 28 OF THE CODE OF ORDINANCES FOR THE CITY OF ASHEVILLE (SPEED LIMIT ON SOUTH FRENCH BROAD)

6. Consideration was given to an ordinance amending Section 28-81.3, 28-82 and 28-82.1 of Article IV, speed regulations, of Chapter 28 of the Code of Ordinances of the City of Asheville.

Mayor McDevitt said a petition has been submitted by the Aston Towers Tenants Association to set the speed on South French Broad Avenue, between Hilliard Avenue and Choctaw Street at 25 m.p.h. This petition is supported by the YWCA and Asheville Junior High School, and has also been endorsed by a resolution from the Asheville Housing Authority. The Traffic Engineering Division also recommends that the speed limit on South French Broad, between Timothy Street and Phifer Street, be set at 20 m.p.h. during designated school hours.

Mayor McDevitt said members of Council were furnished copies of the ordinance and it would not be read in its entirety.

Councilman Frank moved for the adoption of Ordinance No. 1531. This motion was seconded by Councilman Price.

On a roll call vote of 6-0, Ordinance No. 1531 passed on first reading.

ORDINANCE NO. 1532 - AN ORDINANCE AMENDING SECTION 28-81.6 of ARTICLE IV, SPEED REGULATIONS, OF CHAPTER 28 OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE (RICEVILLE ROAD)

7. Consideration was given to an ordinance amending Section 28-81.6 of Article IV, speed regulations, of Chapter 28 of the Code Ordinances of the City of Asheville.

Mayor McDevitt said Riceville Road (SR 2002) had an established speed limit of 45 m.p.h. upon annexation by the City. This action will establish a Municipal Ordinance declaring the 45 m.p.h. speed limit and request a concurring ordinance by the Department of Transportation for this portion of Riceville Road.

Mayor McDevitt said members of Council were furnished copies of the ordinance and it would not be read in its entirety.

Councilman Bissette moved for the adoption of Ordinance No. 1532. This motion was seconded by Councilman Price.

On a roll call vote of 6-0, Ordinance No. 1532 passed on first reading.

ORDINANCE NO. 1533 - BUDGET ORDINANCE AMENDMENT TO SHIFT FUNDING FOR A STAFF POSITION AT THE CHAMBER OF COMMERCE FROM THE GENERAL FUND TO CBDG

8. Consideration was given to a budget ordinance amendment to shift funding for a staff position at the Chamber of Commerce from the General fund to CBDG.

Mayor McDevitt said this appropriation will be used to fund one staff position at the Chamber of Commerce. Total funds shifted will be $19,616.

Councilman Frank moved to suspend the rules and proceed to the third and final reading of Ordinance No. 1530. This motion was seconded by Councilman Price and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1530 passed on third and final reading.

Complete test of Ordinance No. 1530 will be found in Ordinance Book No. 10 at page 294 and 295.

ORDINANCE NO. 1528 - AN ORDINANCE AMENDING ORDINANCE NO. 322 KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE" AS AMENDED - PROPERTY LOCATED ON SWEETEN CREEK ROAD AT OLD WEST CHAPEL (EUGENE CARR PETITION)

4. Consideration was given to the second reading of Ordinance No. 1528, an ordinance amending Ordinance No. 322 known as "An ordinance providing for the zoning of the City of Asheville," as amended - property located on Sweeten Creek Road and Old West Chapel Road (Eugene Carr petition).

Mayor McDevitt said this ordinance was previously read on first reading and would not be reread in its entirety unless there was a specific request to do so.

Mayor McDevitt said the Asheville Planning and Zoning Commission at a meeting held July 10, 1985, considered the petition of Mr. Eugene M. Carr, Jr. that Ward 7, Sheet 55, Lot 7 be rezoned from R-5 Residential District to CS Commercial Service District. The property is located on Sweeten Creek Road at Old West Chapel Road. After review and discussion, the Commission voted to recommend to City Council that Ward 7, Sheet 55, Lot 7 be rezoned from R-5 Residential District to CS Commercial Service District. This ordinance was read on first reading on August 13, 1985.

On a roll call vote of 6-0, Ordinance No. 1528 passed on second reading.

ORDINANCE NO. 1529 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," PROPERTY LOCATED AT 105 BUCHANAN ROAD (DR. E.B. CROSBY PETITION)

5. Consideration was given to the second reading of Ordinance No. 1529, an ordinance amending Ordinance No. 322 known as "An ordinance providing for the zoning of the City of Asheville," as amended - property located at 105 Buchanan Road (Dr. E. B. Crosby peitition).

Mayor McDevitt said the Asheville Planning and Zoning Commission at a meeting held July 10, 1985, considered the petition of Dr. E. B. Crosby, Asheville Hand Center, that Ward 1, Sheet 8, Lot 70, be rezoned from R-3 Residential District to OI Office Institutional District. The property is located at 105 Buchanan Road. After review and discussion, the Commission voted to recommend to City Council that Ward 1, Sheet 8, Lot 70, be rezoned from R-3 Residential District to OI Office Institutional District. This ordinance was read on first reading on August 13, 1985.

Mayor McDevitt said this ordinance was previously read on first reading and would not be reread in its entirety unless there was specific request to do so.

On a roll call vote of 6-0, Ordinance No. 1529 passed on second reading.

FISCAL IMPACT: None

Resolution Book 15 at page ~~286~~ 285.

Resolution No. 85-143

B. Resolution authorizing the City Manager to execute on behalf of the City of Asheville a lease by and between the City of Asheville and the Opportunity Corporation of Madison and Buncombe County Headstart Program for a portion of Reid Memorial Recreation Center.

HIGHLIGHTS: This lease agreement between the City of Asheville and the Opportunity Corporation of Madison and Buncombe County for rental of one (1) room in the Reid Memorial Center will be for a Head Start Program.

FISCAL IMPACT: Rent of $150.00 per month - $1,800.00 annually will be used as revenue for the Parks, Recreation and Public Facilities Department to cover expenses incurred for this service.

Resolution Book No. 15 at page ~~287~~ 286.

Resolution No. 85-144

C. Resolution authorizing the City Manager to execute a Conciliation Agreement by and between the City of Asheville and the Equal Employment Opportunity Commission.

HIGHLIGHTS: The City of Asheville has received a "Letter of Violation" from the Equal Employment Opportunity Commission, hereinafter referred to as "EEOC", with regard to an investigation made at the Asheville Police Department under the Age Discrimination in Employment Act. Section 7(b) of the Age Discrimination in Employment Act requires that, before instituting any action, the EEOC shall attempt to eliminate the discriminatory practice or practices alleged, and to effect voluntary compliance with the requirements of the Act through informal methods of conciliation. The EEOC and the City of Asheville have agreed upon the terms and conditions of a Conciliation Agreement with regard to those discrimination practice or practices alleged in the "Letter of Violation".

FISCAL IMPACT: None

Resolution Book 15 at page ~~288~~ 287.

D. Scheduling a public hearing relative to rezoning property located on Craven Street (Mr. Douglas Clark Petition) for September 10, 1985.

Mayor McDevitt said members of Council were furnished copies of the ordinance and it would not be read in its entirety.

Vice-Mayor Bratton moved for the adoption of Ordinance No. 1533. This motion was seconded by Councilman Frank.

On a roll call vote of 6-0, Ordinance No. 1533 passed on first and final reading.

Complete text of Ordinance No. 1533 will be found in Ordinance Book No. 10 at page ~~300.~~ 301 mcm

RESOLUTION NO. 85-141 - RESOLUTION ACCEPTING THE HIGH BID AND AUTHORIZING THE SALE OF CITY OF ASHEVILLE PROPERTY, KNOWN AS THE OLD WEST ASHEVILLE FIRE STATION

9. Consideration was given to a resolution accepting the high bid and authorizing the sale of City of Asheville property known as the Old West Asheville Fire Station.

Mayor McDevitt said the City of Asheville, by Resolution No. 85-129 adopted July 30, 1985, authorized the City Clerk to advertise the sale of property located on Haywood Road, and known as the Old West Asheville Fire Station. Gary Newlin and Don R. Cloninger submitted the highest bid in the sum of $44,000, plus the additional costs of advertising the offer and appraisal of the property. This resolution will authorize the acceptance of the high bid and authorize the sale of said property.

Mayor McDevitt said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Frank, seconded by Councilman Myers, Resolution No. 85-141 was unanimously adopted.

Complete text of Resolution No. 85-141 will be found in Resolution Book No. 15 at page ~~285.~~ 284 mcm

APPROVAL OF THE CONSENT AGENDA

10. Consideration of a motion approving the consent agenda.

Resolution No. 85-142

A. Resolution authorizing the Mayor to execute and file the "Standard Assurances" for transit assistance grants with the U. S. Department of Transportation.

HIGHLIGHTS: UMTA regulations require that applicants provide a one-time assurance of basic project assurances for transit assistance grants. The City of Asheville is an applicant for transit assistance grants and is therefore required to submit the "Standard Assurances" to the U. S. Department of Transportation. This resolution will authorize the Mayor to execute and file the required "Standard Assurances."

Mayor McDevitt said the replacement of the Arco Road Bridge is an authorized project through the Federal Aid Off-System Program. Replacement of the bridge will require the acquisition of certain real property, right-of-ways and construction easements. He said it is in the best interests of the City of Asheville to acquire said property interests for its use in the replacement of the Arco Road Bridge. He said this resolution would authorize the Mayor to execute the necessary documents for the acquisition of the real property required for the replacement of the Arco Road Bridge.

Mayor McDevitt said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Price, seconded by Councilman Myers, Resolution No. 85-145 was unanimously adopted.

Complete text of Resolution No. 85-145 will be found in Resolution Book No. 15 at page ~~289.~~ 288 mon

CLAIMS - KIM ELLIS (WATER) - JOANN FREDERICKSON (WATER) - ROBERT MOSSER (PARKS AND RECREATION) - OVERHEAD DOOR COMPANY (SANITATION) - SARAH WHEELER (WATER)

The City Manager presented claims received from Kim Ellis, Joann Frederickson, Robert Mosser, Overhead Door Company and Sarah Wheeler.

Mayor McDevitt referred the claims to the Corporation Counsel for investigation and recommendation.

LAWSUITS - RAYMOND WATKINS VS. CITY OF ASHEVILLE (DAMAGE TO PERSON AND PROPERTY - WATER LINE)

The City Manager said the City was served with a summons in connection with a lawsuit involving Raymond Watkins vs. City of Asheville relative to damage to person and property due to alleged negligence and maintenance of a water line.

Mayor McDevitt referred the summons to the Corporation Counsel for investigation and recommendation.

ANNOUNCEMENT OF CITY MANAGER'S RESIGNATION

Mayor McDevitt read the following of resignation from City Manager Neal Creighton:

Dear Mayor McDevitt,

3 August 1985

The purpose of this letter is to inform you and the City Council that as of 1 October 1985, I am resigning from my position as City Manager of Asheville. My reasons for resignation are strictly personal ones, and are not related to my relationship to you, the City Council, or my duties as City Manager. In fact, I have thoroughly enjoyed my association with you and the other six numbers of the City Council. I have never met or worked with more dedicated and competent public officials than you and your six colleagues. Asheville is, indeed, fortunate to have such fine leaders. I have also enjoyed working with the almost 900 employees of this city. By and large, they are highly motivated and qualified. Asheville, Buncombe County, and Western North Carolina are, indeed, the best places to live and work that I have encountered anywhere in the world.

HIGHLIGHTS: The Asheville Planning and Zoning Commission at a meeting held June 5, 1985, considered the petition of Mr. Douglas Clark, Agent for United Chemical Company, Inc., that Ward 6, Sheet 2, Lot 96 and a portion of Lot 45, be rezoned from R-3 Residential District to LI Light Industrial District. The property is located at Craven Street, Waynesville Avenue and Ridgeway Avenue. After review and discussion, the Commission voted to recommend to City Council that Ward 6, Sheet 2, Portions of Lots 96 and 45, be rezoned from R-3 Residential District to LI Light Industrial District, and that adequate buffering be provided.

FISCAL IMPACT: None

E. Scheduling public hearing relative to rezoning property located off Hendersonville Road for September 10, 1985.

HIGHLIGHTS: The Asheville Planning and Zoning Commission at a meeting held July 24, 1985, considered the petition of Mr. William Burgin and Mr. Winston Pulliam that Ward 7, Sheet 60, portion of Lot 55, be rezoned from R-2 Residential District to R-3 Residential District. The property is located off Hendersonville Road. After review and discussion, the Commission voted to recommend to City Council that Ward 7, Sheet 60, portion of Lot 55, be rezoned from R-2 Residential District to R-3 Residential District.

FISCAL IMPACT: None

Upon motion of Councilman Myers, seconded by Councilman Bissette, the Consent Agenda was unanimously approved.

SCHEDULING PUBLIC HEARING RELATIVE TO AMENDING CIVIL SERVICE RULE 17 (J)

Councilman Bissette moved to schedule a public hearing relative to amending Civil Service Rule 17(J) for September 10, 1985, and requesting the Asheville Civil Service Board to amend Civil Service Rule 17(J) of the Civil Service Rules and Regulations to provide for an additional holiday for members of the classified service of the City of Asheville. Said holiday shall be in recognition of Dr. Martin Luther King, Jr.'s birthday. This motion was seconded by Vice-Mayor Bratton and carried unanimously.

RESOLUTION NO. 85-145 - RESOLUTION AUTHORIZING THE MAYOR ON BEHALF OF THE CITY OF ASHEVILLE TO EXECUTE THE NECESSARY DOCUMENTS TO ACQUIRE THE REAL PROPERTY, RIGHT-OF-WAYS AND CONSTRUCTION EASEMENTS REQUIRED FOR THE REPLACEMENT OF THE ARCO ROAD BRIDGE

Consideration was given to a resolution authorizing the Mayor on behalf of the City of Asheville to execute the necessary documents to acquire the real property, right-of-ways and construction easements required for the replacement of the Arco Road Bridge.

Tuesday - August 27, 1985 - 4:00 p.m.

Regular Meeting

Present: Mayor Larry McDevitt, Presiding; Vice-Mayor Wilhelmina Bratton; Councilmen Mary Lloyd Frank, Norma T. Price, Gordon Myers, and Louis Bissette; Corporation Counsel William F. Slawter; City Manager Neal Creighton; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Councilman Walter R. Boland

REPORT ON CITY MANAGER SELECTION PROCESS

Mayor McDevitt said less than a year ago the City Council advertised widely and extensively for a new city manager. He said over 250 applications were received at that time. He said City Council will not be readvertising the position for City Manager; however, they would be accepting applications for the next ten days. He said City Council would be considering all applications previously filed, and any reapplications, and others who had not previously filed.

ORDINANCE 1528 - AN ORDINANCE AMENDING ORDINANCE NO. 322 KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED - PROPERTY LOCATED ON SWEETEN CREEK ROAD AND OLD WEST CHAPEL ROAD (EUGENE CARR PETITION)

2. Consideration was given to the third reading of Ordinance No. 1528, an ordinance amending Ordinance No. 322 known as "An ordinance providing for the zoning of the City of Asheville," as amended - property located on Sweeten Creek Road and Old West Chapel Road (Eugene Carr Petition).

Mayor McDevitt said the Asheville Planning and Zoning Commission at a meeting held July 10, 1985, considered the petition of Mr. Eugene M. Carr, Jr. that Ward 7, Sheet 55, Lot 7 be rezoned from R-5 Residential District to CS Commercial Service District. The property is located on Sweeten Creek Road at Old West Chapel Road. After review and discussion, the Commission voted to recommend to City Council that Ward 7, Sheet 55, Lot 7 be rezoned from R-5 Residential District to CS Commercial Service District. This ordinance was read on first reading on August 13, 1985 and on second reading on August 20, 1985.

Mayor McDevitt said this ordinance was previously read on first and second reading and would not be reread in its entirety unless there was a specific request to do so.

On a roll call vote of 6-0, Ordinance No. 1528 passed on third and final reading.

Complete text of Ordinance No. 1528 will be found in Ordinance Book No. 10 at page 290 and 291.

I regret that I am unable to continue as City Manager to assist you and the Council in all endeavors. As a private citizen, I will be more than willing to help wherever I can.

Sincerely,

Neal Creighton

Mayor McDevitt said the Council is most disappointed in the City Manager's decision and accepts it with extreme reluctance. He said Mr. Creighton has done an excellent job during his short tenure here and we wish him well in the future. He said having been through the City Manager selection process less than one year ago, the Council does not anticipate needing a lengthy period to select a replacement. He said in the meantime, the City is in good condition, and we will have no problem continuing all operations and activities of City government until a new City Manager is named.

RALPH BISHOP - LOTTERY SALES

Ralph Bishop again spoke to members of Council relative to lottery sales in the City of Asheville.

EXECUTIVE SESSION - ADJOURNMENT

Vice-Mayor Bratton moved to go into to Executive Session and adjournment at 5:00 p.m. This motion was seconded by Councilman Myers and carried unanimously.

Lee McDevitt
MAYOR

Marian D. Walcott
CITY CLERK

ORDINANCE NO. 1532, AN ORDINANCE AMENDING SECTION 28-81.6 OF ARTICLE IV, SPEED REGULATIONS, OF CHAPTER 28 OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE

5. Consideration was given to the second reading of Ordinance No. 1532, an ordinance amending Section 28-81.6 of Article IV, Speed Regulations, of Chapter 28 of the Code of Ordinances of the City of Asheville.

Mayor McDevitt said Riceville Road (SR 2002) had an established speed limit of 45 m.p.h. upon annexation by the City. This action will establish a Muncipal Ordinance declaring the 45 m.p.h. speed limit and requests a concurring ordinance by the Department of Transportation for this portion of Riceville Road. This ordinance passed on first reading on August 20, 1985.

Mayor McDevitt said this ordinance was previously read on first reading and would not be reread in its entirety unless there was a specific request to do so.

On a roll call vote of 6-0, Ordinance No. 1532 passed on second reading.

APPROVAL OF SALE OF DISPOSAL PARCELS 117, 187-A, 187-B, 187-C, 187-D, 187-E and 187-F - EAST RIVERSIDE RENEWAL AREA

6. Consideration was given to a motion approving the sale of Disposal Parcels 117, 187-A, 187-B, 187-C, 187-D, 187-E and 187-F in the East Riverside Urban Renewal area.

Mayor McDevitt said the Housing Authority has tentatively accepted the following bids for certain disposal parcels in the East Riverside Urban Renewal Area.

PARCEL	REUSE	PRICE	BID	REDEVELOPER
117	Residential	$2,300.00	$2,400.00	R & R Associates
187-A	Residential	6,200.00	6,351.00	Clarence & Malina McAfee
187-B	Residential	5,750.00	5,800.00	R & R Associates
187-C	Residential	5,650.00	5,700.00	R & R Associates
187-D	Residential	5,600.00	5,750.00	Sandra Smith
187-E	Residential	4,750.00	4,800.00	R & R Associates
187-F	Residential	4,950.00	5,000.00	R & R Associates

Mayor McDevitt said members of Council had been advised that the bid for Parcel 187-B by R & R Associates had been withdrawn.

Councilman Price moved to accept the recommendation of the Housing Authority to sell Disposal Parcels 117, 187-A, 187-C, 187-D, 187-E and 187-F in the East Riverside Renewal Area. This motion was seconded by Councilman Frank and carried unanimously.

ORDINANCE NO. 1529 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED - PROPERTY LOCATED AT 105 BUCHANAN ROAD (DR. E. BROWN CROSBY PETITION)

3. Consideration was given to the third reading of Ordinance No. 1529, an ordinance amending Ordinance No. 322, known as "An Ordinance providing for the zoning of the City of Asheville," as amended - property located at 105 Buchanan Road (Dr. E. Brown Crosby Petition).

Mayor McDevitt said the Asheville Planning and Zoning Commission at a meeting held July 10, 1985, considered the petition of Dr. E. Brown Crosby, Asheville Hand Center, that Ward 1, Sheet 8, Lot 70, be rezoned from R-3 Residential District to OI Office Institutional District. The property is located at 105 Buchanan Avenue. After review and discussion, the Commission voted to recommend to City Council that Ward 1, Sheet 8, Lot 70, be rezoned from R-3 Residential District to OI Office Institutional District. This ordinance was read on first reading on August 13, 1985 and second reading on August 20, 1985.

Mayor McDevitt said this ordinance was previously read on first and second reading and would not be reread in its entirety unless there was a specific request to do so.

On a roll call vote of 6-0, Ordinance No. 1529 passed on third reading.

Complete text of Ordinance No. 1529 will be found in Ordinance Book No. 10 at page 292-293.

ORDINANCE NO. 1531 - AN ORDINANCE AMENDING SECTIONS 28-81.3, 28-82 and 28-82.1 OF ARTICLE IV, SPEED REGULATIONS, OF CHAPTER 28 OF THE CODE OF ORDINANCES FOR THE CITY OF ASHEVILLE

4. Consideration was given to the second reading of Ordinance No. 1531, an ordinance amending Sections 28-81.3, 28-82, 28-82.1 of Article IV, Speed Regulations, of Chapter 28 of the Code of Ordinances for the City of Asheville.

Mayor McDevitt said a petition has been submitted by the Aston Towers Tenants Association to set the speed on South French Broad Avenue, between Hilliard Avenue and Choctaw Street at 25 m.p.h. This petition is supported by the YWCA and Asheville Junior High School, and has also been endorsed by a resolution from the Asheville Housing Authority. The Traffic Engineering Division also recommends that the speed limit on South French Broad, between Timothy Street and Phifer Street, be set at 20 m.p.h. during designated school hours. This ordinance passed on first reading on August 20, 1985.

Mayor McDevitt said this ordinance was previously read on first reading and would not be reread in its entirety unless there was a specific request to do so.

On a roll call vote of 6-0, Ordinance No. 1531 passed on second reading.

Marvin Vierra, Director of Community Development, said this project was in no way a part of the Pack Plaza Project.

John Broadbrooks, Architect, detailed the work to be done by A & B Construction & Development, Inc. for the South Pack Square Area Streetscape Project stating that the components of the project would be sidewalks and landscaping, steps from a parking lot leading up to Biltmore Avenue, a minipark on the southernmost portion of Market Street and the paving of Wilson Alley.

Upon inquiry of Councilman Price, Mr. Broadbrooks said the project should be completed within six months from the beginning of the construction.

Upon motion of Councilman Price, seconded by Councilman Frank, Resolution No. 85-147 was unanimously adopted.

Complete text of Resolution No. 85-147 will be found in Resolution Book No. 15 at page ~~291-292.~~ 290 mgn

RESOLUTION NO. 85-148 - RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN THE NECESSARY CONTRACTS FOR THE LEASE, INSTALLATION, AND MAINTENANCE OF A CENTRAL COMPUTER SYSTEM AND OPERATING SOFTWARE

9. Consideration was given to a resolution authorizing the City Manager to sign the necessary contracts for the lease, installation, and maintenance of a central computer system and operating software.

Mayor McDevitt said this resolutioon will authorize the City Manager to execute contracts with Burroughs Corporation for the lease, installation, and maintenance of the City's center computer system. Fiscal impact for leases is $140,707.00.

Mayor McDevitt said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Bissette, seconded by Councilman Frank, Resolution No. 85-148 was unanimously adopted.

Complete text of Resolution No. 85-148 will be found in Resolution Book No. 15 at page ~~293.~~ 291 mgn

SCHEDULING PUBLIC HEARING - SITE PLAN FOR PROPOSED OVERLOOK CONDOMINIUMS - OVERLOOK ROAD

10. Councilman Frank moved to schedule a public hearing for the site plan of the proposed Overlook Condominiums to be located on Overlook Road for September 10, 1985. This motion was seconded by Councilman Myers and carried unanimously.

Mayor McDevitt said the Asheville Planning and Zoning Commission at a meeting held August 21, 1985, reviewed the site plan of the proposed Overlook Condominiums to be located on Overlook Road. The site plan was prepared by Pankow Engineers for Burnett Associates, Developers, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance.

RESOLUTION 85-146 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE ON BEHALF OF THE CITY OF ASHEVILLE AN AGREEMENT BY AND BETWEEN THE CITY OF ASHEVILLE AND ROGER'S PLUMBING AND HEATING, INC., WITH REGARD TO CERTAIN IMPROVEMENTS IN THE SOUTH PACK SQUARE AREA STREETSCAPE PROJECT

7. Consideration was given to a resolution authorizing the City Manager to execute on behalf of the City of Asheville an agreement by and between the City of Asheville and Roger's Plumbing and Heating, Inc., with regard to certain improvements in the South Pack Square Area Streetscape Project.

Mayor McDevitt said the City of Asheville, through its agents or employees, is undertaking an improvement project in the South Pack Square area, including improvements to existing sidewalks and landscaped area. A retaining wall located at the corner of South Spruce Street and Wilson Alley, on property owned by Rogers Plumbing and Heating, Inc., is in disrepair. Improvement plans of the City for this project area include plans to partially remove and stablize the retaining wall with an earthen embankment. This resolution will authorize the City Manager to sign the necessary agreement to permit said repairs. Funds for this project are currently budgeted in the South Pack Square Streetscape Project.

Mayor McDevitt said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Mr. Broadbrooks, Architect, presented the detailed plans for the improvements in the South Pack Square Area Streetscape Project for work to be done by Rogers Plumbing & Heating, Inc.

Upon motion of Councilman Frank, seconded by Councilman Price, Resolution No. 85-146 was unanimously adopted.

Complete text of Resolution No. 85-146 will be found in Resolution Book No. 15 at page ~~290.~~ 289 Mon

RESOLUTION 85-147 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE ON BEHALF OF THE CITY OF ASHEVILLE A CONTRACT AND ANY CHANGE ORDERS WITHIN THE BUDGETED AMOUNT WITH A & B CONSTRUCTION AND DEVELOPMENT, INC. FOR THE SOUTH PACK SQUARE AREA STREETSCAPE PROJECT

8. Consideration was given to a resolution authorizing the City Manager to execute on behalf of the City of Asheville a contract and any changes orders within the budgeted amount with A & B Construction Development, Inc. for the South Pack Square Area Streetscape Project.

Mayor McDevitt said plans, specifications, and other contract documents for streetscape improvements have been prepared by John A. Broadbooks, ASLA, Landscape Architect/Planner, and were advertised for bids pursuant to Article B of Chapter 143 of the North Carolina General Statutes. The Community Development Division recommends award of the contract to the low bidder, A & B Construction and Development, Inc. This resolution will authorize the City Manager to sign the contract and any change orders within the budgeted amount. Funds in the amount of $178,803.70 are budgeted in the Community Development Fund for this project.

COMPLAINT OF REVEREND WILLS - ALARM AT T.K. TRIPPS

Reverend Wills spoke to members of Council relative to the T. K. Tripps Restaurant alarm going off in the early morning hours disturbing the neighborhood. He asked Council members to look into the situation to see what can be done.

Mayor McDevitt advised Reverend Wills that the staff would look into the situation and get back with him on his complaint.

REVEREND WILLS - COMPLAINT RELATIVE TO BARFIELD STREET(

Reverend Wills spoke to members of Council relative to Barfield Street being only 9' wide. He said it is impossible for his trucks to get into the neighborhood. He asked that the City staff look into widening this street.

RESOLUTION NO. 85-150 - RESOLUTION AUTHORIZING THE SALE OF APPROXIMATELY 16.4 ACRES OF CITY-OWNED PROPERTY LOCATED EAST OF THE INTERSECTION OF FANNING BRIDGE ROAD AND AIRPORT ROAD

Consideration was given to a resolution authorizing the sale of approximately 16.4 acres of City-owned property located east of the intersection of Fanning Bridge Road and Airport Road.

Mayor McDevitt said the City of Asheville has received an offer for the purchase of a tract of land containing 16.4 acres, more or less, located east of the intersection of Fanning Bridge Road and Asheville Airport Road. He said Resolution No. 85-140 directed the City Clerk to advertise the offer pursuant to North Carolina General Statutes 160-269. He said no upset bids have been received within the time required by the Statutes. He said the Asheville City Council has determined that it does not need this property for City purposes and desires to sell this property to American Die Cast Engineering, Inc., a California corporation doing business under the name of "Ronal Wheels". He said this resolution would accept the offer of Ronal Wheels to purchase the property and authorize the Mayor to execute the offer to purchase by and between the City of Asheville and Ronal Wheels and any other documents required to complete the conveyance of the property.

Upon motion of Vice-Mayor Bratton, seconded by Councilman Bissette, Resolution No. 85-150 was unanimously adopted.

Complete text of Resolution No. 85-150 will be found in Resolution Book No. 15 at page ~~295~~. 293 now

PRESS CONFERENCE RELATIVE TO RONAL INTERNATIONAL MANUFACTURING PLANT

Robert Turner, President of the Asheville Area Chamber of Commerce, said after many months of planning, the Asheville Area Chamber of Commerce and the North Carolina Department of Commerce are pleased to announce that Ronal International, a West German manufacturer of aluminum alloy wheels will build its first U.S. factory on 16.5 acres near the Asheville Regional Airport. He said the factory initially will employ 75 workers and eventually will have 150 employees. He said the plant which will provide wheels for General Motors Corporation and American Motors Corporation will be located near Fanning Bridge

After review and discussion, the Commission voted to recommend approval of the site plan to City Council subject to the following conditions; 1) That the fire hydrant be located on an 8" line as shown on the plans submitted 8/21/85; and 2) Compliance with the Erosion Control Ordinance.

SCHEDULING A PUBLIC HEARING - SITE PLAN OF PROPOSED STOWAWAY WAREHOUSES - WILMINGTON STREET

Councilman Price moved to schedule a public hearing relative to the site plan of the proposed Stowaway Warehouses to be located on Wilmington Street for September 10, 1985. This motion was seconded by Councilman Myers and carried unanimously.

Mayor McDevitt said the Asheville Planning and Zoning Commission at a meeting held July 10, 1985, reviewed the site plan of the proposed Stowaway Warehouses to be located on Wilmington Street. The site plan was prepared by J. Bertram King, Architect for Burleson Construction Co., Johnson City, TN, developer and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. He said after review and discussion, the Commission voted to recommend approval of the site plan to City Council subject to the following items: 1) Compliance with Erosion Control Ordinance; 2) City Engineering Department to review the storm drain placement with the paved areas to determine adequacy of grades for flow; 3) Identification sign to be placed no closer than 200' as measured for the northern property lines; and 4) That a (30') buffer strip be provided on the northern property line to visually protect the residential property.

RESOLUTION NO. 85-149 - RESOLUTION APPOINTING MEMBER TO THE ASHEVILLE AREA CIVIC CENTER COMMISSION (MRS. SHERYL M. GROCE)

Consideration was given to a resolution appointing Mrs. Sheryl M. Groce as a member to the Asheville Area Civic Center Commission.

Upon motion of Councilman Frank, seconded by Councilman Myers, Resolution No. 85-149 was unanimously adopted.

Complete text of Resolution No. 85-149 will be found in Resolution Book No. 15 at page ~~249~~. 292 mom

CLAIMS - PAUL JACKSON (WATER) - CHRIS WREN (WATER) - THOMAS EDWARDS (WATER)

The City Clerk presented claims received from Paul Jackson, Chris Wren and Thomas Edwards.

Mayor McDevitt referred the claims to the Corporation Counsel for investigation and recommendation.

RALPH BISHOP - LOTTERY SALES AND OBTAINING CITY RECORDS

Ralph Bishop again spoke to members of Council relative to lottery sales in the City of Asheville and his difficulty in receiving police pension records.

Tuesday - September 3, 1985 - 4:00 p.m.

Regular Meeting

Present: Mayor Larry McDevitt, Presiding; Vice-Mayor Wilhelmina Bratton; Councilmen Mary Lloyd Frank, Norma T. Price, Walter R. Boland, and Louis Bissette; Corporation Counsel William F. Slawter; City Manager Neal Creighton; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Councilman Gordon Myers.

INVOCATION

The invocation was given by Councilman Mary Lloyd Frank.

APPROVAL OF THE MINUTES - AUGUST 27, 1985 MEETING

1. Approval of the minutes of the August 27, 1985 meeting.

Mayor McDevitt announced the approval of the minutes as submitted.

PROCLAMATION - SEPTEMBER, 1985 - "ASHEVILLE SYMPHONY MONTH"

2. Mayor McDevitt read a proclamation proclaiming September as "Asheville Symphony Month".

Mayor McDevitt presented the proclamation to Ellen Sandweiss Hodges, General Manager of the Asheville Symphony.

PROCLAMATION - SEPTEMBER 7-15, 1985 - "FRENCH BROAD RIVER WEEK"

3. Mayor McDevitt read a proclamation proclaiming September 7-15, 1985 as "French Broad River Week".

Mayor McDevitt presented the proclamation to Mrs. Jenkins, who invited all members of Council to the events being sponsored by the French Broad River Week Committee.

ORDINANCE NO. 1534 - BUDGET ORDINANCE AMENDMENT RELATIVE TO REED CREEK SEWER LINE

4. Consideration was given a budget ordinance amendment relative to Reed Creek sewer line.

Mayor McDevitt said this budget ordinance amendment will provide funding to complete change orders to this project to repair Murdock Avenue. Total funding required will be $15,440 to complete this project. Additional funding of $15,440 is required to complete Murdock Avenue repairs. Funding will be provided from Sewer Master Plan Funds. The balance of these funds will be $1,817,003.

Road and Interstate 26. He said because of special requirements in production, the plant's cost will be higher than that of an ordinary factory, with an estimated building cost of 2 million dollars. He said nearly 6 million dollars will be spent on production machinery and startup cost and support equipment will bring the total project cost to 10 million dollars. He said construction of the first building phase will be 55,000 square feet beginning in January. He said the second phase will add 300,000 square feet. He said Ronal represents quality all the way through from the product they manufacture to their commitment to the communities in which they locate. He said the City of Asheville and the Asheville Chamber of Commerce are delighted that Ronal will be locating in Asheville.

ADJOURNMENT TO WORK SESSION AND EXECUTIVE SESSION

Upon motion of Councilman Bissette, seconded by Councilman Myers, the meeting adjourned at 4:50 p.m.

MAYOR

CITY CLERK

Mayor McDevitt said this ordinance was previously read on first and second reading and would not be reread in its entirety unless there was a specific request to do so.

On a roll call vote of 6-0, Ordinance No. 1532 passed on third and final reading.

Complete text of Ordinance No. 1532 will be found in Ordinance Book No. 10 at page 299-300.

RESOLUTION NO. 85-151 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A MUNICIPAL AGREEMENT WITH THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION FOR THE CONSTRUCTION OF A BRIDGE OVER SOUTHERN RAILWAY AND APPROACHES ON SR 3556 (MEADOW ROAD) PROJECT NO. 8.2841601

7. Consideration was given to a resolution authorizing the Mayor to execute a municipal agreement with the North Carolina Department of Transportation for the construction of a bridge over Southern Railway and approaches on SR 3556 (Meadow Road) Project No. 8.2841601.

Mayor McDevitt said the North Carolina Department of Transportation has prepared and adopted plans to make certain street and highway improvements within the City of Asheville under Project No. 8.2841601. These plans consist of constructing a bridge over Southern Railway and approaches on SR 3556 (Meadow Road). The DOT and City propose to enter into an agreement for the above-captioned project. The City of Asheville agrees to reimburse the Department of Transportation to the extent of thirty percent (30%) of the cost of the right-of-way for the project with reimbursement to be made in three (3) equal annual installments to begin on October 15, 1986. This resolution will authorize the Mayor to execute the Agreement with the Department of Transportation. The fiscal impact is thirty percent (30%) reimbursement to NCDOT on right-of-way acquisition. Estimated cost to the City - $55,800.00.

Mayor McDevitt said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Frank, seconded by Councilman Price, Resolution No. 85-151 was unanimously adopted.

Complete text of Resolution No. 85-151 will be found in Resolution Book No. 15 at page 294.

RESOLUTION NO. 85-152 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE ON BEHALF OF THE CITY OF ASHEVILLE A RATIFICATION OF ACCEPTANCE OF PERPETUAL CONSERVATION FACADE EASEMENT FOR THE PACK PLAZA REDEVELOPMENT PROJECT

8. Consideration was given to a resolution authorizing the Mayor to execute on behalf of the City of Asheville a Ratification of Acceptance of Perpetual Conservation Facade Easement for the Pack Plaza Redevelopment Project.

Mayor McDevitt said Pack Plaza Associates Limited Partnership owns certain real property in the Pack Plaza Redevelopment Project area. They have agreed with the City that the facades of the structures are of historical and

Mayor McDevitt said members of Council were furnished copies of the ordinance and it would not be read in its entirety.

Councilman Price moved for the adoption of Ordinance No. 1534. This motion was seconded by Councilman Frank.

On a roll call vote of 6-0, Ordinance No. 1534 passed on first and final reading.

Complete text of Ordinance No. 1534 will be found in Ordinance Book No. 10 at page 302.

ORDINANCE NO. 1531 - AN ORDINANCE AMENDING SECTIONS 28-81.3, 28-82 and 28-82.1 OF ARTICLE 4, SPEED REGULATIONS, OF CHAPTER 28 OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE

5. Consideration was given to the third reading of Ordinance No. 1531, an ordinance amending Sections 28-81.3, 28-82 and 28-82.1 of Article 4, Speed Regulations, of Chapter 28 of the Code of Ordinances of the City of Asheville.

Mayor McDevitt said a petition has been submitted by the Aston Towers Tennants Association to set the speed on South French Broad Avenue, between Hilliard Avenue and Choctaw Street at 25 m.p.h. This petition is supported by the YWCA and Asheville Junior High School, and has also been endorsed by a resolution from the Asheville Housing Authority. The Traffic Engineering Division also recommends that the speed limit on South French Broad, between Timothy Street and Phifer Street, be set at 20 m.p.h. during designated school hours. This ordinance passed on first reading on August 20, 1985, and on second reading on August 27, 1985.

Mayor McDevitt said this ordinance was previously read on first and second reading and it would not be reread in its entirety unless there was a specific request to do so.

On a roll call vote of 6-0, Ordinance No. 1531 passed on third reading.

Complete text of Ordinance No. 1531 will be found in Ordinance Book No. 10 at page 297-298.

ORDINANCE NO. 1532 - AN ORDINANCE AMENDING SECTION 28-81.6 OF ARTICLE 4, SPEED REGULATIONS, OF CHAPTER 28 OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE

6. Consideration was given to the third reading of Ordinance No. 1532, an ordinance amending Section 28-81.6 of Article 4, Speed Regulations, of Chapter 28 of the Code of Ordinances of the City of Asheville.

Mayor McDevitt said Riceville Road (SR 2002) had an established speed limit of 45 m.p.h. upon annexation by the City. This action will establish a Municipal Ordinance declaring the 45 m.p.h. speed limit and request a concurring ordinance by the Department of Transportation for this portion of Riceville Road. This ordinance passed on first reading on August 20, 1985, and on second reading on August 27, 1985.

Tuesday - September 10, 1985 - 4:00 p.m.

Regular Meeting

Present: Mayor Larry McDevitt, Presiding; Vice-Mayor Wilhelmina Bratton; Councilmen Mary Lloyd Frank, Norma T. Price, Gordon Myers, Walter R. Boland, and Louis Bissette; Corporation Counsel William F. Slawter; City Manager Neal Creighton; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: None

INVOCATION

The invocation was given by Councilman Mary Lloyd Frank.

APPROVAL OF THE MINUTES - SEPTEMBER 3, 1985 MEETING

1. Approval of the minutes of September 3, 1985 meeting.

Mayor McDevitt announced the approval of the minutes as submitted.

RECOGNITION OF MATTHEW GENTLING

Mayor McDevitt recognized Matthew Gentling, attending the Council meeting in an effort to obtain his citizenship merit badge as an Eagle Scout. Mayor McDevitt commended Matthew Gentling in his hard work and efforts.

PROCLAMATION - SEPTEMBER 15-21, 1985 - "PRINCE HALL MASONIC WEEK."

2. Mayor McDevitt proclaimed the week of September 15-21, 1985, as "Prince Hall Masonic Week."

PROCLAMATION - SEPTEMBER 17-23, 1985 - "CONSTITUTION WEEK"

3. Mayor McDevitt read a proclamation proclaiming the week of September 17-23, 1985, as "Constitution Week."

Mayor McDevitt presented the proclamation to Carol Weir, with the Ruth Davidson Chapter of the D.A.R. and Mrs. R. G. Baughman, with the Edward Buncombe Chapter D.A.R.

RESOLUTION NO. 85-153 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE ON BEHALF OF THE CITY OF ASHEVILLE AN AGREEMENT BY AND BETWEEN THE CITY OF ASHEVILLE AND CITY ASSETS CORPORATION FOR A REDEVELOPMENT PROJECT FOR THE PROPERTIES KNOWN AS THE JAREDS BUILDING AND THE EAGLE BUILDING ON HAYWOOD STREET

4. Consideration was given to a resolution authorizing the Mayor to execute on behalf of the City of Asheville an agreement by and between the City of Asheville and the City Assets Corporation for a redevelopment project for the properties known as the Jareds Building and the Eagle Building on Haywood Street.

architectural significance and contribute to the cultural heritage and visual beauty of the City of Asheville. This resolution will authorize the Mayor to execute an agreement on behalf of the City of Asheville for the acceptance of the facade easement.

Mayor McDevitt said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Mayor McDevitt said Council had previously agreed to accept the conservation easement in a Memorandum of Understanding with the Pack Plaza Associates Limited Partnership. He said the City would be accepting the dedication of the facade easements for historical purposes and perpetuity. He said maintenance would remain the responsibility of the owners of the building once they are restored, and would be in accordance with the standards of the US Government.

Upon motion of Council Bissette, seconded by Councilman Price, Resolution No. 85-152 was unanimously adopted.

Complete text of Resolution No. 85-152 will be found in Resolution Book No. 15 at page 295-296.

RESOLUTION NO. ... - RESOLUTION APPROVING THE SALE AND CONVEYANCE OF CERTAIN ADDITIONAL PROPERTIES LOCATED IN THE PACK PLAZA REDEVELOPMENT AREA BY THE HOUSING AUTHORITY OF THE CITY OF ASHEVILLE TO PACK PLAZA ASSOCIATES LIMITED PARTNERSHIP

9. Mayor McDevitt, upon the request of Corporation Counsel Slawter, said this resolution would be considered at the September 10, 1985 meeting.

CLAIMS - CARLETON JUSTUS (WATER) - L. M. ROBINSON (SANITATION) - BYNUM SPRINKLE (SANITATION)

The City Manager presented claims received from Carleton Justus, L. M. Robinson, and Bynum Sprinkle.

Mayor McDevitt referred the claims to the Corporation Counsel for investigation and recommendation.

RALPH BISHOP - HIRING OF CITY MANAGER

Ralph Bishop spoke to members of Council relative to their search for a new city manager.

INTRODUCTION OF HAROLD HUFF - DIRECTOR OF WATER AND SEWER SERVICES

The City Manager introduced Mr. Harold Huff, the new Director for the Water and Sewer Services Department.

ADJOURNMENT

Upon motion of Councilman Frank, seconded by Vice-Mayor Bratton, the meeting adjourned at 4:40 p.m.

Harry W. McDevitt
MAYOR

Miriam S. McDevitt
CITY CLERK

Verl Emrick, Director of Planning, said the rezoning was requested in order to accommodate an expansion of the present leasee, United Chemical Company. He said the Planning and Zoning Commission had recommended rezoning of this property subject to adequate buffering being provided. Mr. Emrick said that all adjacent property owners had been notified of the proposed rezononing and no opposition has been received.

Mayor McDevitt closed the public hearing at 4:28 p.m.

Mayor McDevitt said members of Council were furnished copies of the ordinance and it would not be read in its entirety.

Councilman Price moved for the adoption of Ordinance No. 1535. This motion was seconded by Councilman Boland.

A discussion was held relative to the buffering requirements and the possibility of amending the ordinance to provide for the buffering. After discussion, Councilman Price moved to amend the motion to adopt Ordinance No. 1535 to include the provision that in Item No. 1, the third paragraph, be amended to provide that Ward 6, Sheet 2, all of Lot 45 except that portion that lies north of a line extended from the southern tip of Lot 88 to the southwestern tip of Lot 47 to be rezoned R3 Residential District. This amendment was accepted by Councilman Boland.

On a roll call vote of 7-0, Ordinance No. 1535 passed on first reading.

PUBLIC HEARING - REZONING PROPERTY LOCATED OFF HENDERSONVILLE ROAD (WILLIAM BURGIN AND WINSTON PULLIAM, PETITIONERS)

ORDINANCE NO. 1536 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE" AS AMENDED - PROPERTY LOCATED OFF HENDERSONVILLE ROAD (WILLIAM BURGIN AND WINSTON PULLIAM PETITION)

6. A public hearing was held relative to rezoning property located off Hendersonville Road (William Burgin and Winston Pulliam, petitioners).

Mayor McDevitt said the Asheville Planning and Zoning Commission at a meeting held July 24, 1985, considered the petition of Mr. William Burgin and Mr. Winston Pulliam that Ward 7, Sheet 60, portion of Lot 55, be rezoned from R-2 Residential District to R-3 Residential District. The property is located off Hendersonville Road. After review and discussion, the Commission voted to recommend to City Council that Ward 7, Sheet 60, portion of Lot 55, be rezoned from R-2 Residential District to R-3 Residential District.

Mayor McDevitt opened the public hearing at 4:39 p.m.

The City Clerk presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said the requested rezoning is to allow an increase in the density of the area.

Mayor McDevitt said the City Assets Corporation desires to undertake a redevelopment project for the properties known as the Jareds Building and the Eagle Building on Haywood Street. City Assets Corporation has requested that the City include this property in the Haywood Street Redevelopment area. This resolution will authorize the Mayor to execute an agreement between the City and City Assets Corporation for this project. This agreement will provide improvements to the downtown area in the amount of 1.1 million dollars, (total estimated cost). Redevelopment bonds in the amount of $750,000 will be provided for and repaid by the developer.

Mayor McDevitt said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Roger McGuire, with City Assets Corporation, said the project will consist of retail shops at the street level and 12 luxury apartments on the upper floors, plus the penthouse on the Jareds Building. He said they plan to restore the facades within a few weeks with the original style and quality. He said he appreciated the City's interest in downtown and the efforts of the City Manager and staff in moving this project to fruition.

Upon motion of Councilman Frank, seconded by Councilman Bissette, Resolution No. 85-153 was unanimously adopted.

Complete text of Resolution No. 85-153 will be found in Resolution Book No. 15 at page 297.

PUBLIC HEARING - REZONING PROPERTY LOCATED ON CRAVEN STREET (MR. DOUGLAS CLARK, PETITIONER)

ORDINANCE NO. 1535 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE" AS AMENDED - PROPERTY LOCATED ON CRAVEN STREET (MR. DOUGLAS CLARK PETITION)

5. A public hearing was held relative to rezoning property located on Craven Street (Mr. Douglas Clark, Petitioner).

Mayor McDevitt said the Asheville Planning and Zoning Commission at a meeting held June 5, 1985, considered the petition of Mr. Douglas Clark, Agent for United Chemical Company, Inc., that Ward 6, Sheet 2, Lot 96 and a portion of Lot 45, be rezoned from R-3 Residential District to LI Light Industrial District. The property is located at Craven Street, Waynesville Avenue and Ridgeway Avenue. After review and discussion, the Commission voted to recommend to City Council that Ward 6, Sheet 2, Portions of Lots 96 and 45, be rezoned from R-3 Residential District to LI Light Industrial District, and that adequate buffering be provided.

Mayor McDevitt opened the public hearing at 4:24 p.m.

The City Clerk presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

PUBLIC HEARING - SITE PLAN OF PROPOSED STOWAWAY WAREHOUSES - WILMINGTON STREET

8. A public hearing was held relative to the site plan of the proposed Stowaway Warehouses to be located on Wilmington Street.

Mayor McDevitt said the Asheville Planning and Zoning Commission at a meeting held July 10, 1985, reviewed the site plan of the proposed Stowaway Warehouses to be located on Wilmington Street. The site plan was prepared by J. Bertram King, Architect, for Burleson Construction Company, Johnson City, Tennessee, Developer, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of the site plan to City Council subject to the following items: 1) compliance with Erosion Control Ordinance; 2) City Engineering Department to review the storm drain placement with the paved areas to determine adequacy of grades for flow; 3) identification sign be placed no closer than 200 feet as measured from the northern property line; and 4) that a thirty (30') foot buffer strip be provided on the northern property line to visually protect the residential property.

Mayor McDevitt opened the public hearing at 4:49 p.m.

The City Clerk presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said the development of the mini-warehouses will be in two phases. He said there are no problems with water and sewer requirements or with fire protection, according to the Asheville Fire Department, since these will be metal buildings and a fire hydrant is close enough to accommodate the development. He said a concern had been expressed relative to the narrow roads for access to the development. He said this type of business would have a relatively low traffic volume. He said the first phase of the development would consist of in excess of 100 storage units.

Upon inquiry of Council, Mr. Emrick said it was his understanding that a guard would be on duty at night, but the warehouses would be closed during the evening hours.

Upon inquiry of Councilman Price, Mr. Charles Allen, Developer, answered questions relative to the buildings being sprinkled and buffering along the interstate.

Mr. Allen also answered questions relative to the location and height of the proposed identification sign for the Stowaway Warehouse business.

Mr. Al Adams, of 75 Madison Avenue, spoke relative to the combustible materials being stored in the mini-warehouses, stating that he felt the building should be sprinkled.

After discussion, Mayor McDevitt closed the public hearing at 5:03 p.m.

William Burgin, petitioner, spoke in support of the ordinance and requested that the ordinance be read on two readings at this meeting since there was no opposition expressed and there is a time frame involved in the sale of the property.

Mayor McDevitt closed the public hearing at 4:42 p.m.

Mayor McDevitt said members of Council were furnished copies of the ordinance and it would not be read in its entirety.

Councilman Boland moved for the adoption of Ordinance No. 1536. This motion was seconded by Councilman Bissette.

On a roll call vote of 7-0, Ordinance No. 1536 passed on first reading.

Councilman Boland moved to suspend the rules and proceed to the second reading of Ordinance No. 1536. This motion was seconded by Councilman Price and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1536 passed on second reading.

PUBLIC HEARING - SITE PLAN OF PROPOSED OVERLOOK CONDOMINIUMS - OVERLOOK ROAD

7. A public hearing was held relative to the site plan of the proposed Overlook Condominiums located on Overlook Road.

Mayor McDevitt said the Asheville Planning and Zoning Commission at a meeting held August 21, 1985, reviewed the site plan of the proposed Overlook Condominiums to be located on Overlook Road. The site plan was prepared by Pankow Engineers for Burnett Associates, Developers, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of the site plan to City Council subject to the following conditions; 1) That the fire hydrant be located on an 8" line as shown on the plans submitted 8/21/85; and 2) Compliance with the Erosion Control Ordinance.

Mayor McDevitt opened the public hearing at 4:49 p.m.

The City Clerk presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said the Asheville Planning and Zoning Commission had recommended approval of this 12-unit condominium complex subject to a fire hydrant being located on an 8" line and compliance with the Erosion Control Ordinance.

After discussion, Mayor McDevitt closed the public hearing at 4:53 p.m.

Councilman Price moved to approve the site plan of the proposed Overlook Condominiums to be located on Overlook Road subject to the conditions outlined by the Planning and Zoning Commission. This motion was seconded by Councilman Frank and carried unanimously.

RESOLUTION NO. 85-155 - RESOLUTION AUTHORIZING FILING AN APPLICATION WITH THE NORTH CAROLINA LOCAL GOVERNMENT COMMISSION RELATING TO A PROPOSED GENERAL OBLIGATION BOND ISSUE AND DESIGNATING THE AUTHORIZED REPRESENTATIVE OF THE CITY TO FILE THE APPLICATION AND TO EMPLOY BOND COUNSEL

11. Consideration was given to a resolution authorizing filing an application with the North Carolina Local Government Commission relating to a proposed general obligation bond issue and designating the authorized representative of the City to file the application and to employ bond counsel.

Mayor McDevitt said this resolution authorizes the filing of an application with the Local Government Commission for the issuance of $885,000 general obligation bonds, the proceeds of which will be used to defray a part of the cost of constructing a parking deck at Rankin-College Streets. The resolution also selects bond counsel for this purpose. If the funds are approved and sold, they will generate $885,000 to be used in the construction of a $2,200,000 parking deck. Neither the revenue nor the expenditure is currently budgeted. Construction of the deck is expected to have a strong positive economic impact on the community.

Mayor McDevitt said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Upon inquiry of Ralph Bishop, Mayor McDevitt answered questions relative to the use of ad valorem taxes for this project.

Upon motion of Councilman Price, seconded by Councilman Frank, Resolution No. 85-155 was unanimously adopted.

Complete text of Resolution No. 85-155 will be found in Resolution Book No. 15 at page 299-300.

RESOLUTION NO. 85-156 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A MUNICIPAL AGREEMENT WITH THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION FOR PROJECT 9.5130201 (U-503) KNOWN AS CONSTRUCTION AND IMPROVEMENT OF U.S. 25 (MCDOWELL STREET) FROM NEAR VICTORIA ROAD TO SOUTHSIDE AVENUE INTERSECTION

12. Consideration was given to a resolution authorizing the Mayor to execute a municipal agreement with the North Carolina Department of Transportation for Project 9.5130201 (U-503) known as construction and improvement of U.S 25 (McDowell Street) from near Victoria Road to Southside intersection.

Mayor McDevitt said the North Carolina Department of Transportation has prepared and adopted plans to make certain street and highway improvements within the City under Project 9.5130201. These plans consist of the construction and improvement of US 25 (McDowell Street) from approximately 700 feet north of Victoria Road to US 25 (Southside Avenue) intersection. The DOT and City propose to enter into an Agreement for the above-captioned project whereby this Municipality agrees: 1) To effect the necessary adjustment of any utilities under franchise without cost to the Department of Transportation, except that said Department will reimburse this Municipality in accordance with said Department's Municipally Owned Utility Policy.

A discussion was held relative to the proposed sign to be located on the property. After discussion, Councilman Bissette moved to approve the site plan for the proposed Stowaway Warehouses without the approval of the identification sign and subject to the recommendations outlined by the Planning and Zoning Commission. This motion was seconded by Councilman Boland and carried unanimously.

Councilman Bissette noted that the developer could submit alterations to the proposed sign and submit those plans to Council at a later date.

RESOLUTION NO. 85-154 - RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF ASHEVILLE TO EXECUTE AN AMENDMENT TO THE MEMORANDUM OF AGREEMENT WITH THE NORTH CAROLINA ARCHIVES AND HISTORY AND NATIONAL ADVISORY COUNCIL ON HISTORIC PRESERVATION

9. Consideration was given to a resolution authorizing the Mayor of the City of Asheville to execute an amendment to the Memorandum of Agreement with the North Carolina Archives and History and National Advisory Council on Historic Preservation.

Mayor McDevitt said the City of Asheville, the North Carolina State Historic Preservation Officer, and the Advisory Council on Historic Preservation (Council) executed a Memorandum of Agreement on January 18, 1985, for the South Pack Square Redevelopment Project. The City has determined that the alterations to the Hutchinson Building, 18 Eagle Street, and its structural instability, have compromised the integrity of the building as a contributing structure to Asheville Downtown Historic District, and that rehabilitation is no longer economically feasible within the project scope.

Mayor McDevitt said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Frank, seconded by Councilman Myers, Resolution No. 85-154 was unanimously adopted.

Complete text of Resolution No. 85-154 will be found in Resolution Book No. 15 at page 298.

REJECTION OF BID REQUEST NO. 240-85 - FIRE DEPARTMENT 1200-GALLON TANKER TRUCK

10. Consideration was given to a motion to reject Bid Request No. 240-85 for Fire Department 1200-gallon tanker truck.

Mayor McDevitt said Bid Request No. 240-85 was issued for a 1200-gallon tanker truck for the City's Fire Department. Bids were received, evaluated and an award recommendation was made subject to staff agency concurrence. After further consideration, Chief Ball determined it would be best to purchase a 1000 GPM Pumper rather than a 1200-gallon tanker truck. It is being recommended that bids received for the 1200-gallon tanker truck be rejected.

Councilman Frank moved to reject Bid Request No. 240-85 for Fire Department 1200-gallon tanker truck. This motion was seconded by Councilman Price and carried unanimously.

RESOLUTION NO. 85-158 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A LEASE BY AND BETWEEN THE CITY OF ASHEVILLE AND THE STATE OF NORTH CAROLINA (WESTERN NORTH CAROLINA AGRICULTURAL CENTER)

14. Consideration was given to a resolution authorizing the Mayor to execute a lease by and between the City of Asheville and the State of North Carolina in connection with the additional property for the Western North Carolina Agricultural Center.

Mayor McDevitt said this resolution will authorize the Mayor to execute a lease by and between the City of Asheville and the State of North Carolina for a tract of land lying and being in Limestone Township, Buncombe County, North Carolina. The City will realize $500,000 proceeds from this lease.

Mayor McDevitt said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Boland, seconded by Councilman Price, Resolution No. 85-158, was unanimously adopted.

Complete text of Resolution No. 85-158 will be found in Resolution Book No. 15 at page 303.

APPROVAL OF THE CONSENT AGENDA

15. Consideration was given to a motion approving the consent agenda.

Mayor McDevitt said the following items are of a routine nature and they have been previously reviewed by the members of the City Council. Therefore, by unanimous vote to approve these items, the City Council may, pursuant to the procedures established in Ordinance No. 1008, adopt all of the items with one motion without the full reading and/or separate motion adopting each individual item. Upon the request of a citizen, a member of the City Council, and/or a member of the City staff, any single item scheduled for approval on the consent agenda may be considered separately.

Resolution No. 85-159

A. Resolution authorizing the Mayor to execute on behalf of the City of Asheville a Federal Aviation Grant Agreement, Amendment No. 1, Project No. 3-37-0005-05.

HIGHLIGHTS: This resolution will authorize the Mayor to execute Amendment No. 1 to the Federal Aviation Administration Grant Agreement, Project No. 3-37-0005-05. Amendment No. 1 will add Special Condition No. 12 for the letter of credit method of payment.

FISCAL IMPACT: None

2) The City agrees to reimburse the Department of Transportation to the extent of 15% of the cost of the right-of-way for the project with reimbursement to be made in three (3) equal annual installments to begin on October 15, 1986. Funding should be available after July, 1986, in Community Development Funds for the City's participation of $72,990.00. The participating funds are not available in the current budget.

Mayor McDevitt said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Bissette, seconded by Councilman Price, Resolution No. 85-156, was unanimously adopted.

Complete text of Resolution No. 85-156 will be found in Resolution Book No. 15 at page 301.

RESOLUTION NO. 85-157 - RESOLUTION APPROVING THE SALE AND CONVEYANCE OF CERTAIN ADDITIONAL PROPERTIES LOCATED IN THE PACK PLAZA REDEVELOPMENT AREA BY THE HOUSING AUTHORITY OF THE CITY OF ASHEVILLE TO PACK PLAZA ASSOCIATES LIMITED PARTNERSHIP

13. Consideration was given to a resolution approving the sale and conveyance of certain additional properties located in the Pack Plaza Redevelopment Area by the Housing Authority of the City of Asheville to Pack Plaza Associates Limited Partnership.

Mayor McDevitt said the Housing Authority of the City of Asheville has acquired certain properties pursuant to the implementation of the Redevelopment Plan for the Pack Plaza Redevelopment Area. The Housing Authority held a public hearing on August 27, 1985, and made certain findings, all pursuant to Sections 2 and 4 of 1979 Sess. Laws Ch. 317, in order to convey certain parcels in the Pack Plaza Redevelopment Area to a prospective developer. This resolution will authorize the sale and conveyance of those properties of the Pack Plaza Redevelopment area under the terms and conditions set forth in the resolution of the Asheville Housing Authority. The funds extended for this conveyance are pursuant to the City/County loan in the Master Agreement and funds have already been budgeted.

Mayor McDevitt said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Upon inquiry of Ralph Bishop, Corporation Counsel Slawter said the price for the Pack Library Building and the Plaza Theatre had not been determined yet since this will be determined by the court system.

Upon motion of Vice-Mayor Bratton, seconded by Councilman Boland, Resolution No. 85-157, was unanimously adopted.

Complete text of Resolution No. 85-157 will be found in Resolution Book No. 15 at page 302.

Mayor McDevitt said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Mayor McDevitt said he felt compelled to state this is an absurd requirement by the federal government and only drives up the cost of the project. He said this action would do nothing but delay the project; however, Council has no alternative except to approve the resolution.

Vice-Mayor Bratton commented that she felt this was the biggest waste of public funds she had been involved in.

Councilman Bissette said the only action Council could do was appeal the requirement but this would only delay the project for another year.

Councilman Price suggested that the City Council write a letter to the federal government indicating their objections and stating this was a "good intention that turned out to be a bad idea."

Upon motion of Vice-Mayor Bratton, seconded by Councilman Price, Resolution No. 85-160 was unanimously adopted.

Complete text of Resolution No. 85-160 will be found in Resolution Book No. 15 at page 305.

Ralph Bishop spoke in opposition to the resolution stating that Council is not compelled to pass the resolution and should not adopt the resolution.

PUBLIC HEARING - DESIGNATING ADDITIONAL HOLIDAY FOR CITY EMPLOYEES

RESOLUTION NO. 85-161 - RESOLUTION APPROVING THE REVISION OF RULE 17(J) OF THE CIVIL SERVICE RULES AND REGULATIONS

17. A public hearing was held relative to designating an additional holiday for City employees.

Mayor McDevitt said during a recent classification and compensation study conducted by Cresap, McCormick, and Paget, it was recommended that an additional holiday be designated for City employees which will bring the City up to the average number of holidays offered by surveyed organizations. A public hearing is required pursuant to the Civil Service Law.

Mayor McDevitt opened the public hearing at 5:33 p.m.

The City Clerk presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Richard Kendrick, with the Management Services Division, said the consultants, Cresap, McCormick and Paget, had surveyed other cities and industries and had recommended that an additional holiday be designated for City employees. He said this recommendation included that the Council designate Memorial Day as a holiday for City employees. He said it was his understanding that Council had decided to designate January 15, 1985, Martin

Complete text of Resolution No. 85-159 will be found in Resolution Book No. 15 at page 304.

B. Motion to schedule a public hearing for rezoning property located on Old Chunns Cove Road for October 1, 1985.

HIGHLIGHTS: The Asheville Planning and Zoning Commission at a meeting held August 7, 1985, considered the petition of Mr. Larry Buckner, Buckner Associates, that Ward 8, Sheet 25, Lot 26, be rezoned from R-1 Residential District to R-2 Residential District. The property is located on Old Chunns Cove Road. After review and discussion, the Commission voted to recommend to City Council that Ward 8, Sheet 25, Lot 26, be rezoned from R-1 Residential District to R-2 Residential District.

FISCAL IMPACT: None

C. Motion to schedule a public hearing for rezoning property located on Hendersonville Road - Biltmore Dairy Farms, Inc. - for October 1, 1985.

HIGHLIGHTS: The Asheville Planning and Zoning Committee at a meeting held August 7, 1985, considered the petition of Attorney Philip Carson for Biltmore Dairy Farms, Inc. that Ward 7, Sheet 52, Lot 169, be rezoned from R-2 Residential District to CH Commercial Highway District. The property is located on Hendersonville Road. After review and discussion, the Commission voted to recommend to City Council that Ward 7, Sheet 52, Lot 169, be rezoned from R-2 Residential District to CH Commercial Highway District.

FISCAL IMPACT: None

Upon motion of Councilman Bissette, seconded by Councilman Boland, the consent agenda was unanimously approved.

RESOLUTION NO. 85-160 - RESOLUTION AUTHORIZING THE CITY MANAGER OF THE CITY OF ASHEVILLE TO EXECUTE AN AMENDMENT TO THE AGREEMENT WITH GILBERT/COMMONWEALTH, INC. OF MICHIGAN FOR THE ARCHAEOLOGICAL SURVEY AT THE PACK PLAZA REDEVELOPMENT PROJECT

16. Consideration was given to a resolution authorizing the City Manager of the City of Asheville to execute an amendment to the agreement with Gilbert/Commonwealth, Inc. of Michigan for the archaeological survey at the Pack Plaza Redevelopment Project.

Mayor McDevitt said after the initial archaeological testing and evaluation, it has been determined that archaeological data recovery of significant archaeological remains is necessary and that the North Carolina State Historic Preservation Officer has requested this recovery. This resolution will authorize the City Manager to execute an amendment to the agreement with Gilbert/Commonwealth, Inc. to conduct an archaeological survey at the Pack Plaza Redevelopment Project. The budget for the above archaeological survey/data recovery will cost $16,922, and is to be included in the Pack Plaza Project budget. This money is under the Project Management Contingency funding which contains a current balance of $252,096.12.

Mr. McClure, 17 Turtle Creek Apartments, said the issue of Memorial Day should not be considered by the City employees at the same time that Council is considering designating Martin Luther King, Jr.'s, birthday as an official holiday.

Charlotte Tell, City Accountant, read a memorandum dated August 14, 1985, which was received by her division last week indicating that City employees should express their opinion verbally or in writing to their respective department heads relative to the designation of an additional holiday. She said she felt many employees had communicated with their department heads and she was disappointed that their department heads were not here to communicate their concerns to City Council.

Alan Hyder, with the Asheville Police Department, said he had no objection to the observance of Martin Luther King, Jr.'s, birthday being an official holiday in the City of Asheville but the City employees, he felt, would prefer Memorial Day. He suggested that the employees be given the opportunity to vote on the issue since they would be most affected by the observance of holidays.

Bob Smith, Director of the Asheville/Buncombe Community Relations Council, said the leaders of the City and County should get behind the celebration of Martin Luther King, Jr.'s, birthday and make it a special time instead of just another day off.

Larry Fisher, Director of Finance, read a letter from one of the employees in the Accounting Division which objected to City employees having five of their nine holidays grouped in a seven week period between December and January. He said the letter indicated the employees would prefer to take Memorial Day off in May when their families would have the same holiday.

Mr. Henderson, with the Asheville/Buncombe Community Relations Council, presented a petition and letters as a part of the minutes.

Note: The petitions and letters are attached as a part of the minutes.)

Richard Kendrick, with Management Services Division, also presented petitions and letters that he had received relative to designating Memorial Day and requested that they be entered into the minutes.

Note: The petition and letters are attached as a part of the minutes.)

Mayor McDevitt closed the public hearing at 6:10 p.m.

Mayor McDevitt indicated that he was sensitive to the views of the City employees, and all of the petitions, letters, and telephone calls relative to designating another official holiday in the City of Asheville. He said that he was, in fact, against designating any additional holiday off for City employees, however, he felt Council should look at the proposed holiday as a day the City calls to the attention of the community rather than just another day off.

Luther King, Jr.'s birthday, as an official holiday for City employees. He said it had been brought to the staff's attention that the federal government recognizes the third Monday of January as a holiday honoring the birthday of Martin Luther King, Jr., and the first observance of which falls on January 20, 1986. He said the City Council, in his opinion, should recognize the same day as the federal government.

Mr. Kendrick said on September 4, 1985, the Asheville Civil Service Board adopted and approved the revision of Civil Service Rule No. 17(j) to establish January 15th as a holiday for all full-time City of Asheville employees to honor Martin Luther King, Jr.

Mr. Kendrick said he had received petitions from several departments in the City of Asheville for City Council to adopt Memorial Day as an official holiday for City employees. He said he had petitions from the Accounting Division, with eleven signatures; from the Legal Services Division with one signature; and the Street Division with seven signatures. He said it had also been recommended and suggested by the employees that the issue be voted upon by the City employees. He said the employees had indicated that they would rather be home with their families when they are home on Memorial Day.

Councilman Frank noted that in reviewing the survey taken by the consultants that thirteen cities in North Carolina give Memorial Day as an official holiday and three give Martin Luther King, Jr.'s, birthday. She also noted that the consultant had recommended that Memorial Day be given as an official holiday for City employees.

Mayor McDevitt said he had received a petition, just prior to the Council meeting, that read as follows:

"We, the employees of the classified service of the City of Asheville, wish to express our concern and request that the City Council of the City of Asheville schedule a vote among City employees to determine their preference in designating an additional holiday, as approved in the fiscal 1985-86 budget. Due to the fact that several options exist, and there is merit to each respective date, the employees interests would best be served by calling for such a referendum."

He said the petition contained one hundred and forty-three signatures. He requested that the petition be made a part of the minutes.

(Note: The petition is attached as a part of the minutes.)

Oralene Simmons, Director of the Montford Recreation Center, spoke in support of Council designating Martin Luther King, Jr.'s, birthday as an official holiday for the City of Asheville.

Mr. Henderson, with the Asheville/Buncombe Community Relations Council, staff liaison for Martin Luther King, Jr.'s holiday, presented petitions with 225 signatures requesting that the City of Asheville designate Martin Luther King, Jr.'s birthday as an official holiday for the City of Asheville. He also presented copies of letters from many civic organizations requesting that this be designated as an official holiday in the City of Asheville.

LAWSUITS - DOUGLAS DEAN MARTIN VS. CITY OF ASHEVILLE (FALL AT FIRE DEPARTMENT)

19. The City Manager said the City was served with a summons in connection with a lawsuit involving Douglas Dean Martin vs. City of Asheville (fall at Fire Department).

Mayor McDevitt referred the summons to the Corporation Counsel for investigation and recommendation.

RESOLUTION 85-163 - RESOLUTION APPOINTING AN INTERIM CITY MANAGER (WILLIAM F. WOLCOTT, JR.)

20. Mayor McDevitt read a resolution appointing an interim City Manager, William F. Wolcott, Jr., effective October 1, 1985, to serve until such time as a new City Manager shall be named.

Upon motion of Councilman Price, seconded by Councilman Bissette, Resolution No. 85-163 was unanimously adopted.

Complete text of Resolution No. 85-163 will be found in Resolution Book No. 15 at page 308.

RESOLUTION NO. 85-164 - RESOLUTION AUTHORIZING THE CLOSING OF SOUTH CHARLOTTE STREET

21. Consideration was given to a resolution authorizing the closing of South Charlotte Street.

Mayor McDevitt read the resolution stating that rain prevented the hot air balloon races from taking place during Bele Chere and the balloonists wanted, at their own expense, to give Asheville its balloon show. He said the Asheville Parks, Recreation, and Public Facilities Department is co-sponsoring a kite-flying contest with Asheville Cablevision in concert with the hot air balloon lift. He said this resolution would authorize the closing of South Charlotte from 3 p.m. until 8 p.m. on September 28, 1985, and if necessary, due to inclement weather, to close this street from 7 a.m. until approximately 9:30 a.m. on September 29, 1985.

Upon motion of Councilman Frank, seconded by Councilman Myers, Resolution No. 85-164, was unanimously adopted.

Complete text of Resolution No. 85-164 will be found in Resolution Book No. 15 at page 309.

PETITION PRESENTED BY HUGH SMITH - WILSHIRE PARK

22. Mr. Hugh Smith read the following petition from the residents of Wilshire Park relative to street improvements.

Vice-Mayor Bratton said this should be a day Asheville sets aside because of its principle.

Councilman Boland agreed with Vice-Mayor Bratton stating that this would be a holiday to celebrate the leadership of Martin Luther King, Jr., and his ideas of non-violent changes.

Councilman Bissette said this had been a difficult decision for him because Memorial Day and Martin Luther King, Jr.'s, birthday are truly deserving as an official holiday. He said he understood the concerns of the City employees and also the significance of Martin Luther King, Jr.'s, birthday. He said he felt it was the right thing to designate Martin Luther King, Jr.'s, birthday as an official holiday for City employees.

Councilman Price said she felt that it was unfortunate that the two issues occured at the same time, since the consultant recommended Memorial Day and the community initiated a request that the City designate Martin Luther King, Jr.'s, birthday as an offical holiday. She said she would support the majority of the members of Council.

Councilman Frank said she had first supported a "floating holiday" for City employees or either to let the City employees vote on the issue. However, she would abide by the democratic majority of Council.

Upon motion of Councilman Boland, seconded by Vice-Mayor Bratton, Resolution No. 85-161 was unanimously adopted.

Complete text of Resolution No. 85-161 will be found in Resolution Book No. 15 at page 306.

RESOLUTION NO. 85-162 - RESOLUTION APPOINTING MEMBER TO THE TOURISM DEVELOPMENT AUTHORITY (MR. HERMAN VON TRESKOW)

17. Consideration was given to a resolution appointing Mr. Herman Von Treskow as a member of the Tourism Development Authority for a term of three years, term expiring August 30, 1988.

Upon motion of Councilman Price, seconded by Councilman Boland, Resolution No. 85-162, was unanimously adopted.

Complete text of Resolution No. 85-162, will be found in Resolution Book No. 15 at page 307.

CLAIMS - WILLIAM MORRIS (STREETS) - MICHAEL GUZMAN (STREETS)

18. The City Manager presented claims received from William Morris and Michael Guzman.

Mayor McDevitt referred the claims to the Corporation Counsel for investigation and recommendation.

In conclusion, it is recommended that a competent survey be made of the conditions cited above in order to verify same and hopefully to have necessary corrective action taken within a reasonable period of time.

Letter:

47 Carlton Place
Asheville, NC 28806

March 4, 1975

Mr. Philip C. Cocke, Jr.
Director Public Works
P.O. Box 7148, City Building
Asheville, NC

Dear Mr. Cocke:

Subject: Intersection of Wilburn Place and Providence Road

This is a follow-up of your letter of December 5, 1973. According to your personal survey of the condition of the intersection of Wilburn Place and Providence Road, you saw the necessity of a construction project to revise the existing drainage problem. At this time, the blacktop at this section is also in need of repair, due to an oil spill on the Lutheran Church property.

A year has passed and nothing has been done. Were you able to obtain money for this project in 1974, in order that this work might be included in the 1975 budget? Please advise as to the present status.

Yours truly,

Mrs. D. Stephen Mitchell
Corresponding Secretary

M/h
cc: Mr. Bostic
Mr. Webb Bostic, Supt., Street Dept.
P.O. Box 7148, City Building
Asheville, North Carolina

Mr. Smith presented a map outlining the problems indicated in the petition.

He suggested that a sealing treatment be used on the streets in Wilshire Park rather than resurfacing at this time.

Mr. Smith said he knew it was not likely that eveything in the petition would be approved without reservations. However he would suggest that Council direct the appropriate City agency to make an inspection of the conditions cited in the petition. He said based on the results of that inspection, he would recommend that the necessary improvements be made. He

PETITION RELATING TO THE IMPROVEMENT OF STREETS IN THE WILSHIRE PARK SUB-DIVISION OF ASHEVILLE, NC

TO: The Honorable Larry McDevitt, Mayor, and members of the City Council of Asheville, NC.

We, the undersigned residents, and/or property owners in Wilshire Park, Asheville, NC request that:

1. The streets in Wilshire Park be repaired and resurfaced.

2. The curve at the intersection of Wilburn Place and Providence Road be re-graded in order to permit safer driving.

3. The existing concrete street markers be repainted or replaced with metal street signs.

The streets concerned in Wilshire Park include:

Carlton Place	Wilburn Road
Luther Street	Wilburn Place
Providence Road	Wilshire Drive

DISCUSSION: The streets listed above have potholes or have been damaged in a number of places. The patching of same has been a temporary expedient at best. In addition, the street surfaces in numerous areas have become badly cracked due to frost heave. Of particular note is that portion of Wilburn Place between Wilburn Road and Luther Street. Some twelve or more potholes have been patched in that short section of street in the past. Some of them repeatedly. Today, the pavement on Wilburn Place near Wilburn Road is again breaking up with several significant potholes creating a traffic hazard. NOTE: Wilburn Place is a busy traffic street due to the Emmanuel Lutheran Church and School being located at the intersection of Wilburn Place and Luther Street.

With respect to re-grading the curve at the intersection of Wilburn Place and Providence Road, orginally, Wilburn Place extended to what is now the entrance to Laurel Loop, and is still shown that way on city maps. With the construction of the present Patton Avenue roadway, the extended portion of Wilburn Place was eliminated. Providence Road and Wilburn Place were then connected by a rather steep sloping curve that falls away to the outside of the turn. Said curve is especially hazardous during snow or ice conditions. On or about December 5, 1973, Mr. Phillip Cocke, Jr., then director of Public Works for the City of Asheville, made a survey of the situation at the intersection of Wilburn Place and Providence Road. He apparently saw the need for corrective action, however, the project would have to be included in the following years budget due to the cost involved. To date, (almost twelve (12) years later), nothing has been done to improve the situation. See copy of follow-up letter to Mr. Cocke from Wilshire Park Community Club dated March 3, 1975, which is attached hereto.

As for repairing or replacing the existing concrete street markers, the need for such action is obvious because the present markers in some instances are no longer legible.

Total of 143 signatures

We, the employees of the classified service of the City of Asheville, wish to express our concern and request that the City Council of the City of Asheville schedule a vote among City employees to determine their preference in designating an additional holiday, as approved in the fiscal 1985-86 budget. Due to the fact that several options exist, and there is merit to each respective day, the employees' interest would best be served by calling for such a referendum.

said if the costs involved are a governing factor then he would propose that the improvements be accomplished over a one to two year period. Priorities based on feasibility would be as follows: 1) Replace five existing defective street signs; 2) Correct the surface water problem at the intersection of Johnston Boulevard and Providence Road; 3) Repair and resurface poorest road conditions particularly at intersections, resurface the remainder later; 4) Regrade the turn at the intersection of Wilburn Place and Providence Road.

Mayor McDevitt requested that the petition be entered in the minutes.

(Note: The petition is attached as a part of the minutes.)

Mayor McDevitt informed Mr. Smith that he or the City Manager would be giving him a direct response to the petition in the very near future.

RALPH BISHOP - OBTAINING CITY POLICE PENSION RECORDS

23. Mr. Ralph Bishop again spoke to members of Council relative to his difficulty in obtaining police pension records for James J. Moles, former policeman with the City of Asheville.

Mayor McDevitt informed Mr. Bishop that whatever records he was entitled to see under the law, he would be permitted to see.

ADJOURNMENT

Upon motion of Councilman Boland, seconded by Councilman Bissette, the meeting adjourned at 6:55 p.m.

Gary McDevitt
MAYOR

William F. McLaren
CITY CLERK

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We, the employees of the classified service of the City of Asheville, wish to express our concern and request that the City Council of the City of Asheville schedule a vote among City employees to determine their preference in designating an additional holiday, as approved in the fiscal 1985-86 budget. Due to the fact that several options exist, and there is merit to each respective day, the employees' interest would best be served by calling for such a referendum.

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Brenda Moore
Kathy Wilson

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Robert Y J. Ahn

Edward A. Bernard

Rick Harper

We, the employees of the classified service of the City of Asheville, wish to express our concern and request that the City Council of the City of Asheville schedule a vote among City employees to determine their preference in designating an additional holiday, as approved in the fiscal 1985-86 budget. Due to the fact that several options exist, and there is merit to each respective day, the employees' interest would best be served by calling for such a referendum.

Dorothy Lawing
Mary E Smith
Larayne M. Gaston
K Patricia Leckey
Rebecca Pilcowski
Georgia Jane Patterson
C. Dale Tate

70

We, the employees of the classified service of the City of Asheville, wish to express our concern and request that the City Council of the City of Asheville schedule a vote among City employees to determine their preference in designating an additional holiday, as approved in the fiscal 1985-86 budget. Due to the fact that several options exist, and there is merit to each respective day, the employees' interest would best be served by calling for such a referendum.

Building Inspectors

Sherry S. Bark

Marilyn Lodger

Lan E Woolsey

Cindy W Tyler

Wm W Cook

Ray Lowe

J Scantlin

Tony D. Pitts

We, the employees of the classified service of the City of Asheville, wish to express our concern and request that the City Council of the City of Asheville schedule a vote among City employees to determine their preference in designating an additional holiday, as approved in the fiscal 1985-86 budget. Due to the fact that several options exist, and there is merit to each respective day, the employees' interest would best be served by calling for such a referendum.

Myra L Hatton	
Clara D. Metz	
Larry Smith	
Read Thompson	
Helen Campbell	
Richard Ball	
Mary Langston	
Caudle L Johnson	
Ronald Davidson	
Merriman Hensley	
Hermann Rosenfeld	
[illegible]	
Frank N Jamison	
[illegible]	
Margaret Fuller	
Timothy Davis	

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We, the employees of the classified service of the City of Asheville, wish to express our concern and request that the City Council of the City of Asheville schedule a vote among City employees to determine their preference in designating an additional holiday, as approved in the fiscal 1985-86 budget. Due to the fact that several options exist, and there is merit to each respective day, the employees' interest would best be served by calling for such a referendum.

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[illegible]
Kathy [illegible]
[illegible]
Loretta Montgomery

ASHEVILLE JEWISH COMMUNITY CENTER

236 Charlotte Street, Asheville, North Carolina 28801
Telephone: (704) 253-0701

Geoffrey M. Brown, Executive Director
Paul Samuels, Programming Director

May 20, 1985

Asheville City Council
City Hall
Asheville, NC 28801

Dear Members of the Asheville City Council:

The significance of sponsoring a Martin Luther King, Jr. Holiday, city and countrywide, is one of great magnitude. Dr. King was an inspiration to our entire generation - his dream of civil rights combined with his philosophy of civil disobedience in an era marked by violence should serve as a great instruction tool in history, to be used repeatedly for the healthy future of mankind.

Please consider adopting a Martin Luther King, Jr. Holiday in Asheville and Buncombe County. It will enhance our educational system by honoring a man who can serve as a role model for all children and young adults currently enrolled in our school systems.

Shalom,

Geoffrey M. Brown
Executive Director

cc: Robert G. Smith

GMB:blo

(This letter was also sent to the Buncombe County Board of Commissioners, the Asheville School Board, and the Buncombe County School Board.)

The Opportunity Corporation
of Madison-Buncombe Counties
50 Westgate Parkway
Asheville, North Carolina 28806
Telephone 704 252-2495

RECEIVED
JUN 7 Recd
Supt's Office

June 5, 1985

Mr. Robert G. Smith
Executive Director
Asheville-Buncombe Community
Relations Council
165 S. French Broad Avenue
Asheville, North Carolina 28801

Dear Mr. Smith:

With the many unusual accomplishments of Dr. Martin Luther King, Jr. in the field of civil and human rights, The Opportunity Corporation definitely feels that the King holiday is a most deserving one.

As you recall, Dr. King's primary mission was for the basic elimination of injustice and poverty for all people. During his life-time, Dr. King was a "Drum Major for Justice and Peace." He suffered humiliation and imprisonment. No sacrifice was too great for Dr. King.

In the end, Dr. King gave his life attempting to correct the many ills he saw in his country.

We commend the Asheville-Buncombe Community Relations Council for their resolution relative to the adoption of a Martin Luther King, Jr. holiday in Asheville and Buncombe County. We endorse the concept and encourage others to adopt the Martin Luther King, Jr. holiday in Asheville and Buncombe County.

Yours truly,

Lonnie D. Burton

Lonnie D. Burton
Executive Director

Pisgah Legal Services

Post Office Box 2276 Asheville, N.C. 28802
(704) 253-0406

May 8, 1985

The Honorable Larry McDevitt, Mayor
City of Asheville
City Hall
P.O. Box 7148
Asheville, NC 28807

Dear Mayor McDevitt:

On behalf of Pisgah Legal Services, our staff and clients, I strongly urge you to support the adoption of a Martin Luther King, Jr. holiday in Asheville and Buncombe County at the city, county and school levels.

The life and efforts of Dr. King to achieve civil rights and human justice through non-violent means are immensely worthy of commemoration through the establishment of this holiday.

Sincerely,

Barry L. Master
Executive Director
Attorney at Law

cc: Robert G. Smith, Executive Director,
Asheville-Buncombe Community Relations Council

BLM:am

HELPMATE, Inc.

185 S. FRENCH BROAD AVENUE
ASHEVILLE, NORTH CAROLINA 28801
TELEPHONE 704/254-0516

May 21, 1985

Buncombe County School Board
391 Hendersonville Road
Asheville, N.C. 28803

Dear School Board Members:

In response to a request from the Asheville-Buncombe Community Relations Council, the Board of Directors of Helpmate, Inc. supports the adoption of a Martin Luther King, Jr. holiday in Asheville and Buncombe County.

Without wishing to impose substantial financial burdens on the City or County, the majority of the Board of Directors believe such a holiday is a worthy tribute to a man of such distinction in the area of civil and human rights. As an agency which strives to protect these rights in our community, Helpmate finds it appropriate to support such a cause.

Please give this issue the serious consideration it deserves.

Sincerely,

Wanda K. Peters

Wanda K. Peters, Vice President
Helpmate Board of Directors

The Mediation Center

P.O. Box 7171
408 Buncombe County Courthouse
Asheville, N.C. 28807
704-258-6089

May 10, 1985

BUNCOMBE COUNTY BOARD OF COMMISSIONERS
ASHEVILLE CITY COUNCIL
ASHEVILLE SCHOOL BOARD
BUNCOMBE COUNTY SCHOOL BOARD

Dear Community Leaders:

I am writing in support of the resolution to adopt a holiday honoring Martin Luther King, Jr., a great man of peace and nonviolence. A tribute such as this will give the community the message that we value Dr. King's courageous struggle and worthy ideals. Adoption of a regular holiday in his honor will encourage us to study his teachings annually and in that way will empower and uplift us all.

It is important for young and old blacks to have a role model of such high caliber. I strongly urge passage of the resolution to adopt the holiday as a statement that we appreciate Dr. King's work and honor his life.

Sincerely,

Barbara Davis

Barbara Davis
Executive Director

BAD/jj

CC: Robert G. Smith ✓
Ash/Bunc Community Relations Council

THE ATTACHED LETTER WAS SENT TO THE FOLLOWING ADDRESSES:

The Honorable Larry McDevitt,
Mayor
City of Asheville
City Hall
P.O. Box 7148
Asheville, NC 28807

Vernon Dover, Chairman
Buncombe County School Board
Route 1, Box 348-E
Leicester, NC 28748

R. Curtis Ratcliffe, Chairman
Buncombe County Board of
Commissioners
P.O. Box 7435
Asheville, NC 28807

Betsy Simons, Chairman
Asheville City School Board
9 West Avon Parkway
Asheville, NC 28804

Kappa Alpha Psi Fraternity, Inc.
ASHEVILLE ALUMNI CHAPTER
P.O. BOX 942
ASHEVILLE, N. C. 28802

June 19, 1985

Dear

As a young man growing up in the South and remembering a lot of good things that Dr. Martin Luther King, Jr. has done for the country for all mankind, I believe we owe him something back. Dr. King would never ask for anything that's the kind of person he was. I would love my kids and all kids to know the kind of man he was. I believe that if they really knew this they would love to love one another a little bit more and really believe that there is a God who really cares. In order to do this (let our kids remember Dr. King) it would surely help if we had a Holiday for Dr. King.

Sincerely,

Sheldon L. McAlpin

Sheldon L. McAlpin
"Polemarch"

A Copy of this letter went to

1) Buncombe County Board of Comm.
2) Asheville city Schools
3) " School Board
4) Buncombe County School Board

Alpha Phi Alpha Fraternity, Inc.
GAMMA PSI LAMBDA CHAPTER
Asheville, N.C.

May 30, 1985

Mr. Larry McDevitt, Mayor
P.O. Box 7148
City Hall Building
Asheville, N.C. 28801

Dear Mayor McDevitt:

On behalf of the men of Gamma Psi Lambda Chapter of Alpha Phi Alpha Fraternity, Inc., I strongly urge you to consider and to pass a resolution adopting Martin Luther King, Jr.'s birthday as an official holiday in Asheville. As a member of our international fraternity, Dr. King was and remains as a shining example of the ideals and beliefs of our organization: truth, brotherly and sisterly love, justice, equality and equal prosperity for all persons. It is sad to note that his dream has not yet come true as war, racism, poverty and religious conflict continue to plague the civilizations of the world. The adoption of the holiday and the subsequent celebrations, meetings and programs that occur on that day would be a small albeit significant step towards making Asheville an outstanding example of true brotherhood at work.

We urge the adoption of this holiday as a mechanism by which young people and old may reflect upon the true meaning of human relations and hopefully dedicate and re-dedicate themselves towards helping make the dream of justice, peace and prosperity a reality in their lifetimes. To that end, we urge you and your fellow Council members to pass a resolution for a King holiday and to actively take part in making the celebration meaningful for all citizens of this city. The Asheville area has often been noted for its " pioneer spirit " and progressive attitude; Gamma Psi Lambda Chapter challenges you to once again be pioneers in spirit and progressive in attitude by adopting a city wide holiday in honor of Dr. King.

Sincerely,

Lacy T. Haith

Lacy T. Haith,
President

321 College Street
Asheville, N.C. 28801
July 23, 1985

Mr. Larry McDevitt, Mayor
City Hall Building
P.O. Box 7148
ASheville, N.C. 28807

Dear Mayor McDevitt:

On behalf of the Young Adult Choir of Hopkins Chapel A.M.E. Zion Church, I strongly urge you and your fellow councilpersons to consider adopting Dr. Martin Luther King, Jr.'s birthday as a holiday in the city of Asheville. Dr. King, through his efforts in the civil rights struggle, was able to help set in motion the adoption of the Civil Rights Act of 1964 and the Voting Rights Act of 1965, two pieces of legislation which had a major positive impact upon women, minorities and other groups struggling to achieve the American dream and enjoy the full fruits of this nation of plenty. For this reason alone we believe Dr. King is worthy of the honor of having a city holiday in his name.

The adoption of this holiday, however, would mean much more than just a day in his name. This day should be a day in which all of Asheville's citizens would meet and discuss the issues of peace, better human relations, equal economic opportunity and concretely plan for the betterment and prosperity of all city residents. In addition, Dr. King stands as a shining example to our youth because he died for the principles in which he believed; he was a man who spoke the truth without regard for the abuse, threats and physical and mental obstacles put in his way. In a world where our major role models for youth are involved in drug scandals and other immoral and amoral acts, we are fortunate to have witnessed the achievements and lifestyle of such a great individual.

In conclusion, let me emphasize that King's efforts were not just confined to this nation. This may be witnessed by the many monuments to his memory in many of the nations of the world. The principles of peace, prosperity for all and love for mankind are the objects of desire for all nations of the world. Please help keep his dream alive by adopting his birthday a city holiday and by continually working for the betterment of the Asheville society.

Sincerely,

Billie McAdams

Billie McAdams, President

Daughters of Esther No. 128 O. E. S.; P. H. A.

Asheville, North Carolina

July 8, 1985

Asheville-Buncombe Community Relations Council
Aston Towers 165 South French Broad Avenue
Asheville, North Carolina 28801

Dear Members of City Council and Members Buncombe County Board of Commissions

The 83 members of Daughters of Esther Chapter 128, Order of Eastern Star, PHA Jurisdiction of North Carolina strongly support the adoption of a Martin Luther King, Jr. holiday in Asheville and Buncombe County. We believe that much has been said about the works of Dr. King and a holiday in his memory will remind us of his works and what his works require of us.

There is a great need in Asheville and Buncombe County for us to accept the challenge of fulfilling Dr. King's dream. His dream was a dream for all America.

Although Dr. King is dead.....His influence would live forever through the adoption of a national holiday because all citizens of our community could grasp the opportunity to make monumental strides on the basis of principles which have withstood the ravages of varying conditions through all times, love, faith, hope, commitment to the laws of right and actions based on these.

We ask you to please keep the dream alive by the adoption of a "Martin Luther King, Jr. holiday in Asheville and Buncombe County.

Sincerely,

Hazel Turner

HAZEL TURNER, Worthy Matron

JEAN BECK, Secretary

AMERICAN BUSINESS WOMEN'S ASSOCIATION
GREATER ASHEVILLE CHAPTER
Asheville, North Carolina

August 16, 1985

Robert G. Smith, Executive Director
Asheville-Buncombe Community Relations Council
Aston Towers
165 South French Broad Avenue
Asheville, North Carolina 28801

Dear Mr. Smith,

Here are copies of the letters that you requested for your permanent records.

We are always willing to support any worthy endeavor.

If we are able to support you at any other time, please let us know.

Thank you.

Sincerely,

Robbie J. Williams

Robbie J. Williams
President

/rjw

321 College Street
Asheville, N.C. 28801
July 23, 1985

Mr. R. Curtis Ratcliffe, Chairman
Buncombe County Board of Commissioners
P.O. Box 7435
Asheville, N.C. 28807

Dear Mr. Ratcliffe:

On behalf of the Young Adult Choir of Hopkins Chapel A.M.E. Zion Church, I urge you and your fellow Commission members to consider adopting a county holiday in the name of Martin Luther King, Jr. Dr. King's achievements and the principles for which he struggled make him an exemplary person in which to dedicate with an official holiday.

Beyond his achievements, we believe he should be honored for the achievement of great things in the face of many obstacles. The fact that he was able to accomplish much of what he set out to do makes him an excellent role model for today's youth. In an age in which our children see their idols involved in drug scandals and spread out in Playboy and Penthouse, the efforts and character of Dr. King stand as a refreshing alternative. Dr. King worked for what was right and good even in the face of threats and verbal abuse; his strength and dedication should serve as an example to us all of what can and must be done to make this city, county and nation a better place in which to live.

We would hope that the adoption of this holiday would be much more than a day off for individuals; we would hope that this day would be a day in which all citizens could focus directly upon the issues and principles Dr. King espoused throughout his life --- better human relations, economic prosperity for all persons, international peace and freedom from oppression. By collaborating on these issues we can make Asheville and Buncombe County a better and more productive place in which to live.

Sincerely,

Billie McAdams,
President

AMERICAN BUSINESS WOMEN'S ASSOCIATION
GREATER ASHEVILLE CHAPTER
Asheville, North Carolina

August 16, 1985

Mr. R. Curtis Ratcliffe, Chairman
Buncombe County Board of Commissioners
County Courthouse
P.O. Box 7435
Asheville, N. C. 28807

Dear Sir:

The Greater Asheville Chapter of the American Business Women Association (ABWA), send this letter of endorsement, supporting the adoption of a Martin Luther King Jr. holiday in the Asheville and Buncombe County.

Because of his tremendous accomplishments in the areas of civil and human rights, we as a professional organization feel that, a day set aside is most deserving in his honor.

Sincerely,

GREATER ASHEVILLE CHAPTER

Robbie J. Williams

Robbie J. Williams
President

/rjw

AMERICAN BUSINESS WOMEN'S ASSOCIATION
GREATER ASHEVILLE CHAPTER
Asheville, North Carolina

August 16, 1985

The Honorable Larry McDevitt, Mayor
City of Asheville
City Hall Building
P.O. Box 7148
Asheville, N. C. 28807

Dear Sir:

The Greater Asheville Chapter of the American Business Women Association (ABWA), send this letter of endorsement, supporting the adoption of a Martin Luther King Jr. holiday in the Asheville and Buncombe County.

Because of his tremendous accomplishments in the areas of civil and human rights, we as a professional organization feel that, a day set aside is most deserving in his honor.

Sincerely,

GREATER ASHEVILLE CHAPTER

Robbie J. Williams

Robbie J. Williams
President

/rjw

Rural Southern Voice for Peace
1901 HANNAH BRANCH ROAD
BURNSVILLE, NC 28714
704-675-4626

July 31, 1985

To Whom It May Concern:

We are a regional organization dedicated to working toward peace and justice in the small cities and rural areas of the south. We were delighted to hear the news that you are considering adopting a Martin Luther King, Jr. holiday. What a great idea! It should have happened years ago!

We are proud that Dr. King lived and worked in this region. We want him to be remembered and honored for his courage, wisdom and love. Every school child should know of his contribution to this country. Establishing a holiday in his honor is a step in the right direction. We hope that you act soon.

Sincerely,

Herbert L. Walters
Project Director

Tabby Mpofu Support Group
165 South French Broad Avenue
Asheville, North Carolina 28801

July 31, 1985

To Whom It May Concern:

It has come to my attention that Asheville is considering adoption of a Martin Luther King, Jr. holiday. I am writing to whole heartedly endorse this idea. All citizens could benefit from a day set aside to honor and remember this man of international stature. Surely progressive cities in the south should be taking the leadership in this area.

Please act quickly to make this a reality. If I can be of service in your efforts feel free to call on me.

Sincerely,

Marnie Myers Walters

Marnie Myers Walters
President, Tabby Mpofu Support Group

Chi Eta Phi Sorority, Inc.

Lambda

213 Dorchester Avenue
Asheville, North Carolina 28806

August 19, 1985

Mr. Robert G. Smith
Executive Director
Asheville-Buncombe
Community Relations Council
Aston Towers
165 South French Broad Avenue
Asheville, North Carolina 28801

Re: Martin Luther King, Jr. Holiday

Dear Mr. Smith:

Please be advised that the members of Lambda Chapter of Chi Eta Phi Sorority, Inc. are in favor of, and strongly urge the adoption of a Martin Luther King, Jr. holiday in Asheville and Buncombe County. We sincerely believe that Dr. King's tremendous accomplishments in the areas of civil and human rights justify a day being set aside in his honor.

Sincerely,

Chi Eta Phi Sorority, Inc.
Lambda Chapter

Ernestine Rawls

ERNESTINE RAWLS, President

ERS
Mr. Smith
Regret [illegible]
[illegible] Rec.

The Asheville Alumnae Chapter
Delta Sigma Theta Sorority, Inc.
Asheville, North Carolina

P.O. Box 906
Asheville, N.C. 28812

Dear Dr. Henderson,

Asheville Alumnae Chapter of Delta Sigma Theta Sorority, Inc. wishes to endorse all efforts in support of our city and county honoring the "Martin Luther King, Jr. Holiday."

Thank you for your support.

Yours truly,
Lettie W. Polite
(Ms.)Lettie W. Polite
President

CITY OF ASHEVILLE

ASHEVILLE, NORTH CAROLINA

OFFICE OF THE MAYOR

June 21, 1985

Mr. Robert Smith,
Executive Director
Asheville-Buncombe Community
Relations Council
165 South French Broad Avenue
Asheville, NC 28801

Dear Bob:

Thank you for your letter suggesting the adoption of a resolution designating Martin Luther King, Jr.'s birthday as an official holiday in the City of Asheville. I will be in touch with you in the near future about this matter.

Please feel free to write or call me any time you have a suggestion or an idea to improve our city government or community.

Very truly yours,

Larry McDevitt
Mayor

LM/df 107

CITY OF ASHEVILLE

ASHEVILLE, NORTH CAROLINA

Asheville City Council

August 22, 1985

Marnie Myers Walters, President
Tabby Mpofu Support Group
165 South French Broad Avenue
Asheville, North Carolina 28801

Dear Marnie:

Thank you for your letter suggesting the adoption of a resolution designating Martin Luther King, Jr.'s birthday as an official holiday in the City of Asheville. I will be in touch with you in the near future about this matter.

Please feel free to write or call me any time you have a suggestion or an idea to improve our city government or community.

Very truly yours,

Larry McDevitt
Mayor

LMcD/cah

CITY OF ASHEVILLE

ASHEVILLE, NORTH CAROLINA

OFFICE OF THE MAYOR

June 21, 1985

Mr. Barry L. Master,
Executive Director
Pisgah Legal Services
P.O. Box 2276
Asheville, NC 28802

Dear Barry:

Thank you for your letter suggesting the adoption of a resolution designating Martin Luther King, Jr.'s birthday as an official holiday in the City of Asheville. I will be in touch with you in the near future about this matter.

Please feel free to write or call me any time you have a suggestion or an idea to improve our city government or community.

Very truly yours,

Larry McDevitt
Mayor

LM/df 107

CITY OF ASHEVILLE

ASHEVILLE, NORTH CAROLINA

OFFICE OF THE MAYOR

June 21, 1985

Mr. Jack Smith, Chairman
Asheville-Buncombe Community
Relations Council
165 South French Broad Avenue
Asheville, NC 28801

Dear Mr. Smith:

Thank you for your letter suggesting the adoption of a resolution designating Martin Luther King, Jr.'s birthday as an official holiday in the City of Asheville. I will be in touch with you in the near future about this matter.

Please feel free to write or call me any time you have a suggestion or an idea to improve our city government or community.

Very truly yours,

Larry McDevitt
Mayor

LM/df 107

PETITION TO

THE ASHEVILLE CITY COUNCIL

AND

THE BUNCOMBE COUNTY BOARD OF COMMISSIONERS

We hereby urge establishment of the third Monday in January of each year as a legal city/county holiday, with said time period being designated Martin Luther King, Jr. Peace Day. Through such official action will be accorded concrete, continual appreciation to those individuals - irrespective of race, creed, gender, or other personal circumstances - who did, do, and shall not only promote respect for the worth and dignity of all humankind but strive toward achievement of lasting peace and fellowship among all peoples of the world.

NAME	ADDRESS
[illegible]	[illegible]
[illegible]	58A Enderly Park Apt
[illegible]	10 Birch Drive
[illegible]	317 Rock Hill Rd
[illegible]	20 N. Ninth Ave
[illegible]	20 N. Ninth Ave
[illegible]	10 Hood Street
[illegible]	116 Overlook Rd.
[illegible]	15 College Place
[illegible]	15 College Place
[illegible]	65 Blanton St
[illegible]	132-A Rock Hill Rd.
[illegible]	9 Pascack Ct Asheville
[illegible]	10 Kenilworth [illegible]
[illegible]	161 Kenilworth Ave. Asheville
[illegible]	40 Kenilworth Ave. Asheville
[illegible]	5 White Fox Circle Fletcher, N.C.
[illegible]	14 Beverly Condo Asheville NC
[illegible]	115 Blanton Asheville, N.C.
[illegible]	111 Myatt Street
[illegible]	12 Cumberland Ct Asheville, NC
[illegible]	87 Jefferson Av. Asheville, NC
[illegible]	
[illegible]	171 Haywood Rd Asheville NC
[illegible]	171 Haywood Rd Asheville NC

Alpha Kappa Alpha Sorority
Gamma Gamma Omega Chapter
Asheville, North Carolina

May 8, 1985

Mr. Robert G. Smith, Executive Director
Asheville Buncombe Community Relations Council
165 S. French Broad Ave.
Asheville, NC 28801

Dear Bob:

Mrs. Loretta G. Nobles will represent the Gamma Gamma Omega Chapter of Alpha Kappa Alpha Sorority on the Dr. Martin Luther King Holiday Committee. Her address is 112 Oakland Ave., Asheville, NC 28801, and her telephone number is 258-8699.

Sincerely,

Francine

Francine Delany
President

PETITION TO
THE ASHEVILLE CITY COUNCIL
AND
THE BUNCOMBE COUNTY BOARD OF COMMISSIONERS

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NAME	ADDRESS
Elyea F. Galloway	BOX 15625 Asheville N.C. 28813
Katherine Jones	108 La Marche St Apt C 28805
Dorothy A. Kelley	231 White Pine Dr. Ash. NC 28803
Carl Williams	268 A Livingston St 28801
Allen Lapsinter	5-A Lee Walker Hgts. Asheville N.C.
Ophelia Logan	7D Lee Walker Hgts Asheville N.C
Charles Harris	67 Annadale Ave 28801
Robert Mack Jr	5 West Chapel Circle Asheville, NC.
Willie L Craig	30 Jefferson ave 28803
E. A. Knox	37 Washington Pl 28801
Frances L Roland	111 Pelham Dr 28801
Lyona Simpson	36 Rankin St. 28801
Joyce Hutchins	25 N Lyndon St 28801
Jerry Fowler	12 Erskine St. 28801
Kenneth L Hunter	14-D E. Walker Hgts. 28801
Virginia Compliment	330 Hillcrest Circle
Lidie Cunningham	346 S French Broad Ave
Annie Carson	Route 4 Box 460AA Arden, NC 28704
Byrne R Johnson	24 Robinson Ave Asheville N.C 28803
Patricia Moore	44 Lancelot Lane, Asheville NC 28806
Iona M. Rhodes	P.O. Box 665-Asheville, NC 28802
Carolyn Hall	88 White Pine Dr NC 28801
Lisa Greene	42A Erskine Circle 28801
Gillian Adams	7 Waters Street 28801
Beverly Courtier	16 C Dogwood Circle 28806
Rachel Durnal	

PETITION TO
THE ASHEVILLE CITY COUNCIL
AND
THE BUNCOMBE COUNTY BOARD OF COMMISSIONERS

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NAME	ADDRESS
	172 Mt. Clare
	Battle Park Ave

PETITION TO
THE ASHEVILLE CITY COUNCIL
AND
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NAME	ADDRESS
[illegible]	15 Haddon Pl Apt #53
[illegible]	5 Thurlwood Ave
[illegible]	[illegible]
[illegible]	[illegible]
[illegible]	[illegible]
Bryan Belk	Charlotte St.
Addie Hall	66 Buxton Ave
[illegible]	45 [illegible] St
Charles Walker	15 Brook Pl 15
Virginia Bailey	PO Box 1713 Asheville
Bobby J. Robertson	41 High Meadow Rd, Ash. N.C.
Ura R Hearn	[illegible]
[illegible]	[illegible]
[illegible]	[illegible]
Helen K. Bracey	92 Courtland Ave
Jack E. Bracey	92 Courtland Ave
Dorothy M Hyatt	32 Hall Dr 28801
Ruth Mitchell	77 Washington Pl 28801
Geraldine Hathaway	29 Jackson Dr 28806
Willie Smith	28 Short St
Louise B Smith	7 Tuft St, Asheville, NC 28803
Mozell Harrison	1050 West Chapel Rd
Clara A Harrison	1050 West Chapel Rd
Clara Smith	2B Harden Apt
[illegible]	[illegible]

PETITION TO

THE ASHEVILLE CITY COUNCIL

AND

THE BUNCOMBE COUNTY BOARD OF COMMISSIONERS

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NAME	ADDRESS
Jessie Boyd	62 Elizabeth Pl
Debbie Mae Brown	93 White Pine Dr. 28801
[illegible]	259 FRENCH BROAD AVE.
Elijah Mosley	6 Merrick St.
[illegible]	31 Tacoma Pl
Charles Fairclough	43 Whitman St.
Edwina R. Schein	12 LINDEN AVE 28801
Alice Clement	145 Kenilworth Ave 28804
Lowell Cordeiro	5 Mount St. 28804
Dorothy Glover	41 - Forest Flame Drive 28803
Brian Bradley	Arden Arms Apts Ash.
[illegible]	22 Merrick St. 28801
[illegible]	104 [illegible] Ave Ash. 28801
[illegible]	PO Box 5155 Asheville 28813
Bobby Bowen	43 white Pine Dr. Asheville NC
Lydia B. Hays	220 Courtland Pl. Ashe. NC 28801
[illegible]	13 [illegible] Ct. Asheville NC 28803
Phyllis Miller	15 Morley Ave. Ash NC 28
Edward Burt	42 Cumberland Circle Asheville 28801
Terrance Goodwin	39 Congress St Asheville
Rena James	290 Hillside St, Asheville N.C. 28804
Ed James	PO BOX 8412 Asheville 28814
Lucille Brady	705 Center Asheville 28803
William Aiken	32 Brafford St Asville 28801
Dorothy Council	14 Swannanoa Asheville

PETITION TO
THE ASHEVILLE CITY COUNCIL
AND
THE BUNCOMBE COUNTY BOARD OF COMMISSIONERS

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NAME	ADDRESS
[illegible]	381 S. French Broad Asheville 28801
[illegible]	221 Brooklyn Rd. Asheville 28803
[illegible]	68 Oakland Pl. Asheville N C 28801
[illegible]	12 E. Jesse St. Asheville NC 28801
[illegible]	300 [illegible]
[illegible]	1085 W. Chapel Road [illegible]
[illegible]	[illegible]
[illegible]	131 Wyatt St Asheville, NC 28803
[illegible]	46 Hunt Hill Pl. Asheville 28801
[illegible]	16[illegible]
[illegible]	[illegible]
[illegible]	[illegible]
[illegible]	[illegible]
[illegible]	1215-C [illegible]
[illegible]	35-[illegible]
[illegible]	77 Poplar St. Canton, NC 28716
[illegible]	[illegible]
[illegible]	16[illegible]
[illegible]	21 [illegible]
[illegible]	46 [illegible]
[illegible]	4 Ridgeview Acres Candler NC 28715
[illegible]	96F Dawsonwood Gdns Asheville NC 28806
[illegible]	1314 Lamar Road Ba41 Asheville NC 28805
[illegible]	53 Beaucatcher St Asheville NC 28801

PETITION TO
THE ASHEVILLE CITY COUNCIL
AND
THE BUNCOMBE COUNTY BOARD OF COMMISSIONERS

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NAME	ADDRESS
[illegible]	260 Hillside St 28801
[illegible]	57 Annandale 28801
[illegible]	57 Annandale Ave. 28801
Jamie Stilley	10-A Hillcrest Apts 28801
Valerie Stewart	365 S French Broad Ave 28801
Myrtle Lee	P.O. Box 189 28802
Hattie Mae Adam	121 Bartlett Ave. 28801
[illegible]	167 Memorial Hwd 28805
Carrie Brown	55 Clemmons St
Jane Edwards	108 Hillside St 28801
Geneviene Smith	47 Tacoma Street 28801
Middie A Peterson	131 South Grove St
Vivian Heston	Montreat, N.C.
[illegible]	Asheville, N.C. 28802
Florence C. Holloway	64 Pearson Dr. 28801
Annie Bowens	77 pearson Dr apt 4
Eula Carroll	5 Short Shiloh St 28803
Nannie Hallum	28A Klondyke Pl 28801
Lucille Lynch	8 Phifer St 28801
Cuppy Lynch	6 Adelle Street 28801
Janye Gilliam	130 Houston Street
Edie Scott	4-A Erskine St Apts
Carol Broad	8F Buchanan apt
Patricia Baggett	6-A Weaverview apt
Joyce Caulder	174 Pearson Dr.

PETITION TO
THE ASHEVILLE CITY COUNCIL
AND
THE BUNCOMBE COUNTY BOARD OF COMMISSIONERS

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NAME	ADDRESS
Carolyn Alexander	POB 2504 Asheville NC
Ed Wilson	9 Rose Rd " 28805
[illegible] Scott	[illegible]
[illegible]	[illegible]
[illegible]	[illegible]
[illegible]

PETITION TO
THE ASHEVILLE CITY COUNCIL
AND
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NAME	ADDRESS
Bernice C Morris	115 Westbrook St. Black Mtn. NC 28711
Eugene Hunnicutt	13 Honey Dr. Asheville, N.C. 28805
Adeline Rapp	1231 Hermitage Rd, Asheville NC 28803
Lil Caughey	516 Weaverville Hwy #4, Asheville, NC 28804
Hazel [illegible]	128 [illegible] Asheville N.C. 2880[illegible]
[illegible]	[illegible]
[illegible]	1 Blackwood St Apt 6 Asheville, NC 28801
[illegible]	[illegible]
[illegible]	[illegible]
[illegible]	[illegible]
Robin Rosenthal	65 Buchanan Ave Asheville, N.C. 28801
[illegible]	46 Sunnyside Dr. Asheville, NC 28803
Catherine Ritter	3000 Lexington St, Asheville, NC 28801
Jenny Thurmond-Sanders	133 Elm Street, Asheville, NC 28801
[illegible]	44 [illegible] Ave Asheville NC 28801
Estelle Wright	43 Kimberly Pl Asheville, N.C. 28801
Hunter Hopkins	12-A Parkwood Apts Asheville, NC 28803
[illegible]	2 Summit Dr. Arden, N.C. 28704
[illegible]	[illegible]
[illegible]	10-F Hillcrest Apt. 28804
Margaret N Kelly	105 Beech Street, Black Mt NC 28711
[illegible]	P.O. Box 9338, Asheville, NC 28815

MEMORANDUM TO: Patsy Brison, Staff Attorney

FROM: Charlotte Hutchison, Research Analyst ch

DATE: September 5, 1985

SUBJECT: Proposed Civil Service rule change

This memo is in response to the proposed revision of Civil Service Rule 17. I am glad that Dr. King's birthday has been made into a national holiday, but I don't like the idea of choosing January 15 for the additional holiday for city employees. Personally I don't care what we celebrate — I'd be delighted to have Halloween or Valentine's Day or April Fools Day, so long as the date was one that doesn't come too close to our existing city holidays.

That's why I object to adding January 15 for our ninth holiday. Even without the addition of another holiday, we already have 5 of our 8 holidays within a 5-week period extending from the end of November to the beginning of January. This leaves only 3 holidays for the remaining 47 weeks of the year. If we're going to have another holiday, let's not clump it in with the five days that are already so clumped together.

Attached is a copy of the calendar for next year. On it I have highlighted in pink each of our existing holidays, plus the proposed new one. I have also crossed through the five months during which we have no holiday. (I didn't cross through April because Easter tends to come in April; it just happens to be early next year.) I have also highlighted, in yellow, some appropriate holidays that come in the months when we have no holiday.

My suggestion is that we have one of these other holidays (Washington's birthday, Memorial Day, Flag Day or Columbus Day) instead of Dr. King's birthday. My personal preference would be Memorial Day, since it creates a three-day weekend and seems to be the most widely observed of those holidays that I've listed.

PETITION TO

THE ASHEVILLE CITY COUNCIL

AND

THE BUNCOMBE COUNTY BOARD OF COMMISSIONERS

We hereby urge establishment of the third Monday in January of each year as a legal city/county holiday, with said time period being designated *Martin Luther King, Jr. Peace Day*. Through such official action will be accorded concrete, continual appreciation to those individuals - irrespective of race, creed, gender, or other personal circumstances - who did, do, and shall not only promote respect for the worth and dignity of all humankind but strive toward achievement of lasting peace and fellowship among all peoples of the world.

NAME	ADDRESS
[illegible]	[illegible]
[illegible]	[illegible]
[illegible]	[illegible]
[illegible]	138 D Lillington Dr.
[illegible]	274 N. H. Hillside St

We, the employees of the classified service of the City of Asheville, wish to express our concern and request that the City Council of the City of Asheville schedule a vote among City employees to determine their preference in designating an additional holiday, as approved in the fiscal 1985-86 budget. Due to the fact that several options exist, and there is merit to each respective day, the employees' interest would best be served by calling for such a referendum.

1986

JANUARY

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29	30					

IMPORTANT DATES

JANUARY
1 New Year's Day
15 Martin Luther King, Jr.'s Birthday

FEBRUARY
12 Lincoln's Birthday
12 Ash Wednesday
14 Valentine's Day
17 Washington's Birthday - Observd
22 Washington's Birthday

MARCH
17 St. Patrick's Day
23 Palm Sunday
28 Good Friday
30 Easter Sunday

APRIL
24 Passover

MAY
11 Mother's Day
17 Armed Forces Day
19 Victoria Day (Canada)
26 Memorial Day - Observd
30 Memorial Day

JUNE
14 Flag Day
15 Father's Day

JULY
1 Canada Day (Canada)
4 Independence Day

SEPTEMBER
1 Labor Day

OCTOBER
4 Rosh Hashanah
13 Columbus Day
13 Columbus Day - Observd
13 Yom Kippur
13 Thanksgiving Day
13 (Canada)
24 United Nations Day
31 Halloween

NOVEMBER
4 Election Day
11 Veterans Day
27 Thanksgiving Day

DECEMBER
25 Christmas Day
27 Hanukkah

JULY

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AUGUST

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31						

SEPTEMBER

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OCTOBER

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NOVEMBER

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DECEMBER

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COMMENTS TO CITY COUNCIL RE; WILSHIRE PARK PETITION

ADDRESS COUNCIL: "MAYOR MCDEVITT AND MEMBERS OF COUNCIL."

MY NAME IS HUGH SMITH AND I LIVE AT 37 CARLTON PLACE IN WILSHIRE PARK,WEST ASHEVILLE.

I APPEAR BEFORE YOU AS A REPRESENTATIVE OF THE RESIDENTS OF WILSHIRE PARK. PURPOSE-- TO PRESENT A PETITION WHICH RELATES TO THE NEED FOR STREET IMPROVEMENTS IN THE PARK.

(Pass out copies of petition to members of council and news media.Give copy with signatures to Mayor. Announce number of signatures.)

WITH YOUR PERMISSION,I WOULD LIKE TO READ THE PETITION AND POINT OUT SOME OF THE DETAILS FROM A MAP OF WILSHIRE PARK WHICH I HAVE BROUGHT WITH ME.

(Proceed to read petition aloud and then point out details from map.)

DO YOU HAVE ANY QUESTIONS THUS FAR?

(Answer same as appropriate.)

MEMBERS OF COUNCIL,I KNOW IT IS NOT LIKELY THAT EVERYTHING ASKED FOR IN THIS PETITION WILL BE APPROVED WITHOUT RESERVATION.HOWEVER,I WOULD SUGGEST THAT YOU DIRECT THE APPROPRIATE CITY AGENCY TO MAKE AN INSPECTION OF THE CONDITIONS CITED IN THE PETITION.BASED ON THE RESULTS OF SUCH INSPECTION,I WOULD RECOMMEND THAT THE NECESSARY IMPROVEMENTS BE MADE. IF COST IS A GOVERNING FACTOR,THEN I PROPOSE THAT THE IMPROVEMENTS BE ACCOMPLISHED OVER A PERIOD OF ONE TO TWO YEARS.PRIORITIES BASED ON FEASIBILITY WOULD BE AS FOLLOWS;

1. REPLACE 5 EXISTING DEFECTIVE STREET SIGNS.
2. CORRECT THE SURFACE WATER PROBLEM AT THE INTERSECTION OF JOHNSTON BLVD. AND PROVIDENCE ROAD.
3. REPAIR AND RE-SURFACE THE POOREST ROAD CONDITIONS,PARTICULARLY AT INTERSECTIONS. RE-SURFACE THE REMAINDER LATER.
4. RE-GRADE THE TURN AT THE INTERSECTION OF WILBURN PLACE AND PROVIDENCE ROAD.

LADIES AND GENTLEMEN, IF THERE ARE NO FURTHER QUESTIONS,I THANK YOU FOR YOUR TIME AND ATTENTION.

FINANCE DIR.
SEP - 6 A.M.

MEMORANDUM TO: Larry Fisher, Department of Finance

FROM: The Undersigned

DATE: September 5, 1985

SUBJECT: Civil Service Rule 17

This is in response to the memorandum to all City Employees regarding a public hearing on the proposed Civil Service Rule Revision.

We understand the revision is to add Dr. Martin Luther King, Jr.'s Birthday to the current list of holidays.

We would prefer a holiday more widely observed by other governmental units, such as:

Memorial Day - 4th Monday in May

Presidents Day - 3rd Monday in February

Dorothy Laning

Rebecca Jamieson

Mary E. Arnold

Lawrence Jenkins

Richard Robertson

Barbara Cody

Mary Ann Morris

Charlotte [illegible]

Rebecca [illegible]

C. Bruce

SIGNERS OF PETITION:

NAME	ADDRESS	DATE
Mary M. Winkler	21 Carleton Pl. Asheville NC	8-14-85
Marjorie Tiet	24 Carleton Pl, Asheville, NC	8-14-8
Gertrude Marquardt	100 Providence Rd. Asheville, N.C.	8-23
Betty Dixon Liddy	105 Providence Rd. Asheville NC	8-22
Judy S. Mullinix	192 Providence Rd. Ashe	288
Carl E. Mast	188 Linden Dr., Asheville N.C.	28806
Myrna M. Duckett	200 Providence Rd. Ashe. NC	2880
Michael K. Duckett	200 Providence Rd. Asheville NC	28806
Ruby P. Jones	214 Providence Rd. Asheville NC	2880
Peggy Jones	214 Providence Rd. Asheville NC	2880
W. Shuffler	210 Providence Rd. Asheville NC	2880
Mary A. Fraser	214 Providence Rd. Asheville N. C.	28
Dana Ellis	95 Providence Rd. Asheville NC	2880
June Kay Ellis	95 Providence Rd. Asheville, N.C.	832-6
R. L. McKee	91 Providence Rd. Asheville NC	2880
Phil M. Parker	51 Providence Rd. Asheville NC	28804
Gill A. Jones	70 Providence Rd. Asheville NC	28806
Bessie Jones	70 Providence Rd. Asheville NC	2880

PETITION RELATING TO THE IMPROVEMENT OF STREETS IN THE WILSHIRE PARK SUB-DIVISION OF ASHEVILLE. NC

TO: The Honorable Larry McDevitt, Mayor, and members of the City Council of Asheville, NC.

We, the undersigned residents, and/or property owners in Wilshire Park, Asheville, NC request that;

1. The streets in Wilshire Park be repaired and resurfaced. suggests a sealing treatment

2. The curve at the intersection of Wilburn Place and Providence Road be re-graded in order to permit safer driving.

3. The existing concrete street markers be repainted or replaced with metal street signs.

The streets concerned in Wilshire Park include:

Carlton Place	Wilburn Road
Luther Street	Wilburn Place
Providence Road	Wilshire Drive

DISCUSSION: The streets listed above have potholes or have been damaged in a number of places. The patching of same has been a temporary expedient at best. In addition, the street surfaces in numerous areas have become badly cracked due to frost heave. Of particular note is that portion of Wilburn Place between Wilburn Road and Luther Street. Some twelve or more potholes have been patched in that short section of street in the past. Some of them repeatedly. Today, the pavement on Wilburn Place near Wilburn Road is again breaking up with several significant potholes creating a traffic hazard. NOTE: Wilburn Place is a busy traffic street due to the Emmanuel Lutheran Church and School being located at the intersection of Wilburn Place and Luther Street..

With respect to re-grading the curve at the intersection of Wilburn Place and Providence Road, originally, Wilburn Place extended to what is now the entrance to Laurel Loop, and is still shown that way on city maps. With the construction of the present Patton Avenue roadway, the extended portion of Wilburn Place was eliminated. Providence Road and Wilburn Place were then connected by a rather steep sloping curve that falls away to the outside of the turn. Said curve is especially hazardous during snow or ice conditions. On or about December 5, 1973, Mr Phillip Cocke,Jr, then director of Public Works for the City of Asheville, made a survey of the situation at the intersection of Wilburn Place and Providence Road. He apparently saw the need for corrective action, however, the project would have to be included in the following years budget due to the cost involved. To date, (almost twelve (12) years later), nothing has been done to improve the situation. See copy of follow-up letter to Mr Cocke from the Wilshire Park Community Club dated March 3, 1975 which is attached hereto.

As for repairing or replacing the existing concrete street markers, the need for such action is obvious because the present markers in some instances are no longer legible.

In conclusion, it is recommended that a competent survey be made of the conditions cited above in order to verify same and hopefully to have necessary corrective action taken within a reasonable period of time.

RFC: ① Survey of conditions ② Priority date

(petition signatures on following pages)

SIGNERS OF PETITION CONTINUED:

NAME	ADDRESS	DATE
Paul M Murphy	34 Wilshire	8/25/85
Mary Murphy	"	8/25/85
Stacy Riddle	38 Wilshire	8/25/85
Elaine Riddle	"	"
Jerome Lance	42 Wilshire	8-25-85
Evelyn Lance	"	"
J J Goodson	103 Wilshire	8-25-85
Denise Jordan	103 Wilshire Dr	8-25-85
Margaret Reed	95 Wilshire Ave	8-25-85
Mary M Brooks	68 Wilshire Dr	8-25-85
Charles R Brooks	"	"
Lisa S Brown	"	"
Horace Young	33 Wilshire Dr	8-25-85
W G [illegible]	33 Wilshire Dr	8-25-85
Eugene Felder	30 " "	8-26-85
Mae Black	31 " "	8-26-85
Clyde Black	31 " "	8-26-85
Helen Herndon	35 Wilshire Dr	8-26-85
C N Herndon	35 Wilshire Dr	8-26-85
(1) Mr & Mrs F R Reese	65 Wilshire Drive	8-26-85
(1) Mr & Mrs John Wise	90 Wilshire Drive	8-26-85
(1) Charles & Dora Felder	117 Wilshire Drive	8-26-85
Frankie Thornton	32 Wilshire	8-26-85
WILBURN THORNTON	"	8-26-85

SIGNERS OF PETITION CONTINUED:

NAME	ADDRESS	DATE
William M. Trail, Jr.	32 Carlton Pl	8-11-85
Celia C. Trail	32 Carlton Place	8-11-85
Helen T. Myers	42 Carlton Pl.	8-11-85
Claude M. Myers	42 Carlton Pl.	8-11-85
George Nicholson	33 Carlton Place	8-11-85
Velma J. Smith	37 Carlton Place	8-12-85
Hugh M. Smith	37 Carlton Place	8/13/85
Margaret M. Caldwell	27 Carlton Place	8-13-85
Joseph R. Caldwell	27 Carlton Place	8-13-85
Craig Lowery	36 CARLTON PLACE	8/13/85
Lois Jean Lowery	36 CARLTON PLACE	8/13/85
[illegible]	48 Carlton Place	8/13/85
Steve Mitchell	47 Carlton Pl.	8/13/85
Ellen Mitchell	47 Carlton Pl.	8/13/85
Grace Chew	41 Carlton Pl	8/13/85
Charles R. Pitts	41 Carlton Pl.	8/13/85
Lenard W. Harris	38 Carlton Pl	8/13/85
James E. Entlenga	23 Carlton Pl.	8-18-85
Hazell E. Entlenga	23 Carlton Pl.	8-18-85
Clay Keller	196 Providence Rd	8-25-85
Matta Keller	196 Providence Rd	8-25-85

SIGNERS OF PETITION CONTINUED:

NAME	ADDRESS	DATE
Dixie R. Mathews	36 Luther St.	~~8-16-85~~ 16/8/85
Hazel R. Mathews	36 Luther St.	16/8/85
Elaine Orr	44 Luther St	8-16-85
H B Roberts	52 Luther	8-18-85
Mrs. W. F. Wolter	14 Luther	8-19-85
Mrs James W Taylor	37 Wilburn Pl	8-19-85
Mr. James Taylor	37 Wilburn Pl	8-19-85
William T. Berry	31 Wilburn Pl.	8-19-85
Mr. Walter McPeak	31 Wilburn Pl	8-19-85
Mrs Ruth Graham	64 Luther St	8-22-85
Kathleen R Graham	64 Luther St	8-22-85
Pearl M Watt	108 Providence Rd	8-22-85
Larry V Watt	108 Providence Rd	8-22-85
J V Shoemaker	47 Wilburn Place	8-22-85
Katherine L Shoemaker	47 Wilburn Place	8-22-85
W F Wolter	14 Luther St	8/23/85

SIGNERS OF PETITION CONTINUED:

NAME	ADDRESS	DATE
Mary Farmer Ray	3 Wilburn Road	8-10-85
Kathryn Leigh Ray	"	8-10-85
Pauline P. Boyd	5 Wilburn Road	8-10-85
Stuart W. Fisher	7 Wilburn Rd.	8-12-85
Evelyn Fisher	7 Wilburn Rd	8-12-85
William W. Boyd	5 Wilburn Rd	8-12-85
Margaret Goldridge	2 Wilburn Rd	8/12/85
Kenneth Goldridge	2 Wilburn Rd	8/12/85
Margaret Hanley	8 Wilburn Rd.	8/12/85
Bert L. Hanley	8 Wilburn Rd.	8/12/85
Carolyn Horton	10 Wilburn Rd.	8/12/85
Allison Horton	13 Wilburn Rd.	8/12/85
B. Cleo Jackson	9 Wilburn Rd.	8/12/85
Winifred Copeland	14 Wilburn Rd.	8-13-85
William R. Copeland	14 Wilburn Rd.	8-13-85
Kathleen Hyatt	18 Wilburn Rd	8/13/85
D. T. Hyatt	18 Wilburn Rd	8/13/85
Harry Shotwell	17 Wilburn Rd	8-13-85
Betty Ann Shotwell	17 Wilburn Rd	8-13-85
Kimberly Ann Shotwell	17 Wilburn Rd	8-13-85
[illegible] Rex	19 Wilburn Rd	8-13-85
Bridgitte Ray	19 Wilburn Rd	8-13-85
Peggy M. Butterfield	21 Wilburn Rd	8-13-85
Gladys R. McNeil	21 Wilburn Rd	8-13-85
Pamela L. P. Fisher	7 Wilburn Rd.	8-19-85
Peggy C. Brady	30 Carlton Place	8-24-85

(9A)

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SIGNERS OF PETITION CONTINUED:

NAME	ADDRESS	DATE
Mrs. D. D. Wilson	23 Wilshire Dr.	Aug. 14, 1985
Mr. Thomas H. Beathard	16 Wilshire	Aug. 14, 1985
Mrs. John H. Beathard	16 Wilshire	Aug. 14, 1985
Rita Runion	8 Wilshire Drive	Aug. 14, 1985
Hal A Lunn	8 WILSHIRE DRIVE	Aug 14, 1985
Emilie A Prince	4 Wilshire Drive	Aug. 14, 1985
Mary J Dalton	5 Wilshire Drive	Aug. 14, 1985
Lucille L Hawkins	109 Wilshire Dr	Aug. 14, 1985
Robert M Hawkins	109 Wilshire Dr	Aug. 14, 1985
Joan Duncan	14 Wilshire Dr	Aug. 15th, 1985

(10)

SIGNERS OF PETITION CONTINUED:

NAME	ADDRESS	DATE
[redacted]		
Patricia H. Waites	29 Wilshire Dr	8-14-85
[illegible] Waites	29 Wilshire Dr	8-14-85
Bobbie Waites	29 Wilshire Dr	8-14-85
Tammy Waites	29 Wilshire Dr	8-14-85
Jack Fulmes	23 Wilshire Dr	8-14-85
Carol Nelson	23 Wilshire Dr	8-14-85
Don Nelson	23 Wilshire Dr	8-14-85
Mrs. Nell Fulmes	23 Wilshire Dr	8-14-85
Bob Lee Fisher	32 Welbrin Rd	8-14-85
Mary H. Chambers	7 Wilshire Dr.	8-14-85
Betty White	9 Wilshire Dr.	8-15-85
[illegible]	9 Wilshire Dr.	8-15-85
[redacted]		
Royce Silver	15 Wilshire Dr	8-15-85
Glenn M. Silver	15 Wilshire Dr	8-15-85

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SIGNERS OF PETITION:

NAME	ADDRESS	DATE
Rev Lyster E Wagner Pastor	Emmanuel Lutheran Church	9/5/85
Robert C Foerst	Emmanuel Lutheran School	9/5/85
Marcia B Marquardt	Emmanuel Lutheran Church	9/5/85

LUTHERAN

EMMANUEL CHURCH

REPS.

SIGNERS OF PETITION CONTINUED:

NAME	ADDRESS	DATE
[redacted]	69 Providence Rd.	8-10-85
[redacted]	62 Providence Rd.	8-10-85
[redacted]	62 Providence	8-10-85
[redacted]	68 Providence Rd.	8-10-85
[redacted]	59 Providence Rd.	8-10-85
[redacted]	37 Providence Rd	8-11-85
[redacted]	37 Providence Rd	8-11-85
[redacted]	29 Providence Rd	8/11/85
[redacted]	29 "	
[redacted]	40 Providence Rd	8/11/85
[redacted]	40 Providence Rd	8/11/85
[redacted]	53 Providence Rd	8/11/85
[redacted]	53 Providence Rd	8/11/85
[redacted]	38 Providence Rd	8/12/85
[redacted]	38A Providence Rd	8/12/85
[redacted]	38A Providence Rd	8/12/85
[redacted]	21 Providence	8/12/85
[redacted]	38B Providence Rd	8/12/85
[redacted]	33 Providence Rd	8-12-85
[redacted]	15 PROVIDENCE Rd.	8-12-85
[redacted]	45 Providence Rd.	8-15-85
[redacted]	45 Providence Rd.	8-15-85
[redacted]	7 Providence Rd	8-20-85
[redacted]	48 Providence Rd	8/20/85
[redacted]		
[redacted]		
[redacted]		
[redacted]		

CARLTON PL (WEST ASHEVILLE) FROM 216 PROVIDENCE RD NORTH 1 WEST OF WILBURN PL

ZIP CODE 28806
Hinkle Mary M Mrs ● 253-7845
Erxleberger James E ● 254-6359
Vick Marjorie A Mrs ● 252-5687
Caldwell Joseph B ● 254-6766
Brady Peggy C Mrs ● 252-0816
Neal Wm M Jr ● 253-6388
Nicholson Geo A ● 254-6270
Vacant
Smith Hugh M ● 258-0470
Harrison Robt P ● 258-1204
Rhew Charles R ● 252-7659
Myers Claude M ● 252-5470
Mitchell David S ● 253-9906

LUTHER ST —FROM 61 WILBURN PL NORTHWEST 1 WEST OF PATTON AV

ZIP CODE 28806
Wolter Wm F ● 252-1049
WILSHIRE DR INTERSECTS
Mathews Harold G ● 253-8066
Orr Elaine 258-7782
Roberts Harold B ● 254-0648
Jayne Jesse A ● 253-0967
Graham Norman W ● 253-7877
PROVIDENCE RD INTERSECTS

PROVIDENCE RD (WEST ASHEVILLE)—FROM 69 JOHNSTON BLVD NORTHEAST 1 NORTH OF WILSHIRE DR

ZIP CODE 28806
Rogers Jean N ●
No Return
Kinsey Russell W ● 258-2706
Martin Kevin V ● 254-6478
Brown Elder ● 253-1106
Horn Charles R 252-9222
Caudle Jonathan W ● 253-4210
Vacant
Ledford J E ●
Ellison Richd A ● 253-9784
Jackson M E
Norris Joseph ● 253-8983
Hoyt John ● 258-0197
Hyatt Sam P ● 252-6043
Wagner Ophelia ●
Caldwell Carl B ● 258-9018
Freeman Clyde D Jr ● 253-3980
No Return
Porche Phil W ● 254-9782
Mc Hone Cason P Jr ● 253-5488
Olin Larry E ● 253-9076
Marquardt Gertrude B Mrs ●
Gaddy James M ● 253-1266
Watt Geo H ● 253-0463
LUTHER ENDS
Short Addie E Mrs ● 253-3706
Mulkana Judy B ● 252-6382
Keller Jay V ● 253-1325
Duckett Michl K ● 253-6488
Jervis John E ● 253-3282
CARLTON BEGINS
Sheffer Louis P ● 254-3561
Jensen Ange ● 253-2604
Ledford Glenn B ● 254-1720
WILBURN PL INTERSECTS

WILBURN PL (WEST ASHEVILLE) FROM 6 WILBURN RD EAST 1 NORTH OF PATTON AV

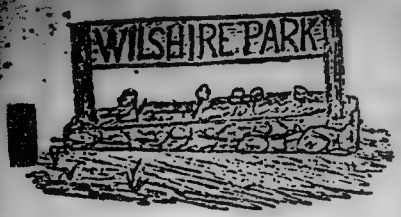
ZIP CODE 28806
Mc Crary Edith G ● 253-7349
Mc Crary William O music engraver
Taylor James W ● 253-8612
Shoemaker Joseph V ● 254-2273
LUTHER BEGINS
Emanuel Lutheran Church 252-1796
Emanuel Lutheran School 252-1796

WILBURN RD (WEST ASHEVILLE) FROM PATTON AV NORTHWEST NORTH OF HAYWOOD

ZIP CODE 28806
Auldredge Spurgeon C ● 253-6325
Ray Leroy ● 254-1690
Boyd Wm W ● 253-9803
WILBURN PL BEGINS
Ramsey Myrtle Mrs ● 254-6491
Fisher Robt W ● 258-0059
Hamsley Margt H Mrs ● 254-7288
Jackson Bessie B Mrs ● 253-6024
Horton G Allison ● 254-2414
Copeland Wm R 254-6486
Satterfield George
Shotwell Harry J ● 253-3732
Hyatt Danl F Jr ● 258-8626
Ray Michael
Vacant
Vacant
Fisher Robt L ●
WILSHIRE DR INTERSECTS

WILSHIRE DR (WEST ASHEVILLE) FROM 20 JOHNSTON BLVD NORTHEAST 1 NORTHWEST PATTON AV

ZIP CODE 28806
Prince Emilie A ● 258-0726
Dalton Mary K ●
Chambers Mary H ● 254-4367
No Return
Silver S A ●
Duncan Wm A ● 254-4274
No Return
Beathard Tommy H ● 253-4963
Stuart Jane ● 254-9872
Vacant
Palmer Nellie O Mrs ● 252-0486
Jervis Maria P ● 253-9086
Wilson Margt S Mrs ● 254-1086
Wastes David L ● 253-6146
Felder Eng H ● 253-7841
Black Clyde T ● 254-4430
Thornton Wilburn P ● 253-9751
Young Howell R ● 253-5088
Murphy Paul M ● 254-1009
Herndon C Norburn ● 253-5306
Goode Gleason J Mrs ● 254-8221
Riddle Stanley M Jr ● 253-0894
Lance Wm C ● 253-6366
Reece Reuben F ● 253-0081
Brooks Charles N ● 252-5273
Wise John M Jr ● 253-0980
Reed Margt P ●
Goodson James L ●
Redeu Eng L ● 253-6406
Hawkins Robt M ● 253-4369
LUTHER INTERSECTS



Wilshire Park Community Club

Asheville, North Carolina

47 Carlton Place
Asheville, N. C. 28806

March 4, 1975

Mr. Philip C. Cocke, Jr.
Director Public Works
P. O. Box 7148, City Building
Asheville, North Carolina

Dear Mr. Cocke:

Subject: Intersection of Wilburn Place and Providence Road

This is a follow-up of your letter of December 5, 1973. According to your personal survey of the condition of the intersection of Wilburn Place and Providence Road, you saw the necessity of a construction project to revise the existing drainage problem. At this time, the blacktop at this section is also in need of repair, due to an oil spill on the Lutheran Church property.

A year has passed and nothing has been done. Were you able to obtain money for this project in 1974, in order that this work might be included in the 1975 budget? Please advise as to the present status.

Yours truly,

Mrs. D. Stephen Mitchell
Corresponding Secretary

M/h

cc: Mr. Bostic

Mr. Webb Bostic, Supt., Street Department

P. O. Box 7148, City Building

Asheville, North Carolina

Lot 45, be rezoned from R-3 Residential District to LI Light Industrial District. The property is located at Craven Street, Waynesville Avenue and Ridgeway Avenue. After review and discussion, the Commission voted to recommend to City Council that Ward 6, Sheet 2, Portions of Lots 96 and 45, be rezoned from R-3 Residential District to LI Light Industrial District, and that adequate buffering be provided. On September 10, 1985, a public hearing was held and this ordinance passed on first reading.

Mayor McDevitt said this ordinance was previously read on first reading and would not be reread in its entirety unless there was a specific request to do so.

On a roll call vote of 6-0, Ordinance No. 1535 passed on second reading.

ORDINANCE NO. 1536 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED - PROPERTY LOCATED OFF HENDERSONVILLE ROAD (WILLIAM BURGIN AND WINSTON PULLIAM, PETITIONERS)

6. Consideration was given to the third reading of Ordinance No. 1536, an ordinance amending Ordinance No. 322, known as "An ordinance providing for the zoning of the City of Asheville," as amended, property located off Hendersonville Road. (William Burgin and Winston Pulliam, Petitioners).

Mayor McDevitt said the Asheville Planning and Zoning Commission at a meeting held July 24, 1985, considered the petition of Mr. William Burgin and Mr. Winston Pulliam that Ward 7, Sheet 60, portion of Lot 55, be rezoned from R-2 Residential District to R-3 Residential District. The property is located off Hendersonville Road. After review and discussion, the Commission voted to recommend to City Council that Ward 7, Sheet 60, portion of Lot 55, be rezoned from R-2 Residential District to R-3 Residential District. On September 10, 1985, a public hearing was held and this ordinance passed on first and second reading.

Mayor McDevitt said this ordinance was previously read on first and second reading and would not be reread in its entirety unless there was a specitic request to do so.

On a roll call vote of 6-0, Ordinance No. 1536 passed on third and final reading.

Complete text of Ordinance No. 1536 will be found in Ordinance Book No. 10 at page 305 and 306.

RESOLUTION NO. 85-165 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A RIGHT-OF-WAY ENCROACHMENT AGREEMENT WITH THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION FOR THE INSTALLATION OF A TWELVE INCH SEWER LINE ACROSS JOHNSTON BOULEVARD, STATE ROAD 1319

7. Consideration was given to a resolution authorizing the Mayor to execute a right-of-way encroachment agreement with the North Carolina Department of Transportation for the installation of a twelve inch sewer line across Johnston Boulevard, State Road 1319.

Mayor McDevitt said this resolution will authorize the Mayor to execute a right-of-way encroachment agreement with the NC DOT for the purpose of installing a twelve inch (12") sewer line across Johnston Boulevard, SR 1319. This is part of the Smith Mill Creek Project. This is one of the Priority II projects in the City of Asheville Sewer Master Plan - $100,000 is appropriated for this project.

Tuesday - September 17, 1985 - 4:00 p.m.

Regular Meeting

Present: Mayor Larry McDevitt, Presiding; Councilmen Mary Lloyd Frank, Norma T. Price, Gordon Myers, Walter R. Boland, and Louis Bissette; Corporation Counsel William F. Slawter; City Manager Neal Creighton; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Vice-Mayor Wilhelmina Bratton (Death in Family)

INVOCATION

The invocation was given by Councilman Walter Boland.

APPROVAL OF THE MINUTES - SEPTEMBER 10, 1985 MEETING

1. Approval of the minutes of the September 10, 1985 meeting.

Mayor McDevitt announced the approval of the minutes as submitted.

PROCLAMATION - SEPTEMBER 17, 1985 - "INTERNATIONAL DAY OF PEACE"

2. Mayor McDevitt read a proclamation proclaiming September 17, 1985, as "International Day of Peace".

Mayor McDevitt presented the proclamation to David Quinn, Chairman of Baha'i Local Spiritual of Asheville.

PROCLAMATION - SEPTEMBER 24, 1985 - "INTERNATIONAL INTEGRITY DAY"

3. Mayor McDevitt proclaimed September 24, 1985, as "International Integrity Day".

PROCLAMATION - SEPTEMBER 22, 1985 - "AMERICAN BUSINESS WOMEN'S DAY"

4. Mayor McDevitt read a proclamation proclaiming September 22, 1985, as "American Business Women's Day".

Mayor McDevitt presented the proclamation to Beverly Brooks, President of the Sky Hy Chapter of the American Business Women's Association.

ORDINANCE NO. 1535 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED - PROPERTY LOCATED ON CRAVEN STREET (MR. DOUGLAS CLARK PETITIONER)

5. Consideration was given to the second reading of Ordinance No. 1535, an ordinance amending Ordinance No. 322, known as "An ordinance providing for the zoning of the City of Asheville," as amended, property located on Craven Street (Mr. Douglas Clark, Petitioner).

Mayor McDevitt said the Asheville Planning and Zoning Commission at a meeting held June 5, 1985, considered the petition of Mr. Douglas Clark, Agent for United Chemical Company, Inc., that Ward 6, Sheet 2, Lot 96 and a portion of

Transportation not paid by the Federal Highway Administration. This resolution will authorize the Mayor to execute an agreement for the reinspection of the municipal system bridges. The estimated cost will be $3,000.00 which is included in the current budget.

Mayor McDevitt said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Bissette, seconded by Councilman Boland, Resolution No. 85-167 was unanimously adopted.

Complete text of Resolution No. 85-167 will be found in Resolution Book No. 15 at page 312.

RESOLUTION NO. 85-168 - RESOLUTION AUTHORIZING THE MAYOR TO SIGN AN AGREEMENT FOR THE DEVELOPMENT OF AN FY'85 COST ALLOCATION PLAN

10. Consideration was given to a resolution authorizing the Mayor to sign an agreement for the development of an FY'85 Cost Allocation Plan.

Mayor McDevitt said the City has used the services of David M. Griffith and Associates, Ltd. to prepare cost allocation plans for each fiscal year since FY'82. All the plans prepared have been accepted by the Department of Housing and Urban Development without modification. The use of these plans have allowed a significant increase in recovery of administrative and other indirect costs. Federal regulations require that a new plan be developed each year. This resolution will authorize the Mayor on behalf of the City to execute an agreement with David M. Griffith and Associates, Ltd. for the development of cost allocation plans which allocate audited FY'85 costs. The cost of the plan is included in the FY'85 budget. The plan itself will support the recovery of revenues already included in the FY'86 budget.

Mayor McDevitt said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Mayor McDevitt said, in previous years, the cost allocation plans have proved to be invaluable.

Upon motion of Councilman Frank, seconded by Councilman Myers, Resolution No. 85-168 was unanimously adopted.

Complete text of Resolution No. 85-168 will be found in Resolution Book No. 15 at page 313.

RESOLUTION NO. 85-169 - RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF ASHEVILLE TO MAKE APPLICATION FOR STATE SENIOR CITIZEN CENTER FUNDS

11. Consideration was given to a resolution authorizing the Mayor of the City of Asheville to make application for State Senior Citizen Center funds.

Mayor McDevitt said the North Carolina Department of Human Resources, Division of Aging, has a program whereby grants are available for acquisition or renovation of senior citizen centers. The program of services at the Harvest House Senior Citizen Center could be improved by the use of funds from this grant. The total grant is for $12,000.00.

Mayor McDevitt said members of Council were previously furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Price, seconded by Councilman Frank, Resolution No. 85-165 was unanimously adopted.

Complete text of Resolution No. 85-165 will be found in Resolution Book No. 15 at page 310.

RESOLUTION NO. 85-166 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE ON BEHALF OF THE CITY OF ASHEVILLE AMENDMENT FOR THE CONTRACT WITH SUTTON-KENNERLY AND ASSOCIATES FOR ADDITIONAL FEES FOR PROFESSIONAL SERVICES ON THE PROJECT KNOWN AS THE MUNICIPAL BUILDING REPAIR PROJECT

8. Consideration was given to a resolution authorizing the Mayor to execute on behalf of the City of Asheville Amendment for the contract with Sutton-Kennerly and Associates for additional fees for professional services on the project known as the Municipal Building Repair Project.

Mayor McDevitt said due to the extension of the time period for the construction phase for the Municipal Building Repair Project and due to the change in scope of the Municipal Building Repair Project, additional fees for professional services of Sutton-Kennerly and Associates are necessary. This resolution will authorize the Mayor to execute on behalf of the City an amendment for the contract with Sutton-Kennerly and Associates for additional professional services. This amount was recouped by assessing the construction contractor $1,000.00 as liquidated damages.

Mayor McDevitt said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Frank, seconded by Councilman Myers, Resolution No. 85-166 was unanimously adopted.

Complete text of Resolution No. 85-166 will be found in Resolution Book No. 15 at page 311.

RESOLUTION NO. 85-167 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT WITH THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION FOR THE INSPECTION OF BRIDGES ON THE CITY OF ASHEVILLE'S STREET SYSTEM

9. Consideration was given to a resolution authorizing the Mayor to execute an agreement with the North Carolina Department of Transportation for the inspection of bridges on the City of Asheville's street system.

Mayor McDevitt said the City of Asheville has requested the North Carolina Department of Transportation to perform certain work under the Federal-Aid Highway Bridge Replacement and Rehabilitation Program, said work to consist of the reinspection and analysis of all public bridges on the Municipal Street System in the City of Asheville. The Federal Highway Administration shall reimburse the North Carolina Department of Transportation for eighty percent (80%) of the cost of the work subject to compliance with all applicable federal policy and procedural rules and regulations. The City of Asheville shall reimburse the North Carolina Department of Transportation for all costs of the work incurred by the Department of

Mayor McDevitt read the resolution stating that the City has been advised that the City Hall boiler presently in use has a high probability of failure which may result in significant damage as has already occurred in the past two heating seasons. The City is in the process of developing a plan for energy conservation for the City Hall which calls for replacement of the heating system. The firm of Wood and Cort, P.A. is presently preparing said plan and has agreed to provide design services, contract documents, preparation, advertising for competitive bidding, receipt of bids, construction observation and coordination of the work with requirement with future heating/cooling system for a lump sum fee of $4,800.00. This resolution will amend the existing agreement with Wood and Cort, P.A. to encompass the aforementioned project and authorize the City Manager to execute a change in the agreement.

Upon motion of Councilman Boland, seconded by Councilman Frank, Resolution No. 85-170 was unanimously adopted.

Complete text of Resolution No. 85-170 will be found in Resolution Book No. 15 at page 315.

CLAIMS - DON WELBORN (FIRE) - BONNIE HOLCOMBE (WATER) - JOHN CHAMBERS (WATER)

The City Manager presented claims received from Don Welborn, Bonnie Holcombe and John Chambers.

Mayor McDevitt referred the claims to the Corporation Counsel for investigation and recommendation.

ANNOUNCEMENT OF DECISION ON APPEAL BY THE SCHNEIDER NINE GROUP - DECERTIFICATION OF BUNN AND GIBBS BUILDING - BILTMORE AVENUE AND COMMERCE BUILDING ON SOUTH PACK SQUARE

Mayor McDevitt announced that the appeal, by the Schneider Nine Group, of the U.S. Department of the Interior's regional office in Atlanta's decision that the Bunn and Gibbs Building and Commerce Building not be decertified had been approved by Ernest Connally, Chief Appeals Officer of the Preservation Assistance Division of the National Park Service. He said the decertification would allow the Bunn and Gibbs Building on Biltmore Avenue to be demolished to make way for a parking deck at Broadway and Eagle Street. He said the Schneiders plan to gut the interior of the Commerce Building and install a corridor that would extend from the Jackson Building to the Legal Building which are now separated by walls. He said he felt this was the last major hurdle for the Pack Plaza Developmen Project and construction should begin within the next few weeks. He said he was very pleased and proud of the way the appeal was handled by the Schneiders and the City.

RALPH BISHOP - OBTAINING POLICE PENSION RECORDS

Upon inquiry of Ralph Bishop relative to obtaining police pension records relative to former police officer James J. Moles, Corporation Counsel Slawter said Mr. Bishop had received all the records relative to Mr. Moles that were public records. He said Mr. Moles would have to give written permission for any further records to be reviewed by the public.

Mayor McDevitt said members of Council were previously furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Boland, seconded by Councilman Price, Resolution No. 85-169 was unanimously adopted.

Complete text of Resolution No. 85-169 will be found in Resolution Book No. 15 at page 314.

APPROVAL OF SIGN PERMIT - 37 TUNNEL ROAD - BISHOP'S CATTLE COMPANY

12. Consideration was given to a motion approving a sign permit for an identification sign at 37 Tunnel Road for Bishop's Cattle Company.

Mayor McDevitt said Bishop's Cattle Company has requested a sign permit to erect an identification sign at 37 Tunnel Road advertising "Bishop's Cattle Company". This sign requires approval of City Council pursuant to the zoning ordinance in that the sign will be situated closer than 600' of a limited access highway.

Verl Emrick, Director of Planning, said there would be three signs involved at this location. He said two signs would be on the building; one with 62 square feet and one with 95 square feet. He said the joint identification sign would contain 127 square feet. He said the signs meet all the requirements of the sign ordinance.

Councilman Frank moved to approve the sign permit for an identification sign at 37 Tunnel Road for Bishop's Cattle Company. This motion was seconded by Councilman Myers, and carried unanimously.

SCHEDULING PUBLIC HEARING - REDEVELOPMENT PLAN FOR THE HAYWOOD/WALL STREET REDEVELOPMENT PROJECT

13. Councilman Myers moved to schedule a public hearing to consider adoption of a redevelopment plan for the Haywood/Wall Street Redevelopment Project for October 8, 1985. This motion was seconded by Councilman Frank, and carried unanimously.

CLOSING OF WALL STREET - THURSDAY, SEPTEMBER 19, 1985 - RECEPTION FOR ASHEVILLE-BUNCOMBE DISCOVERY OFFICE

14. At the request of the Planning Director, Councilman Frank moved to allow the closing of Wall Street from 5:00 p.m. to 7:00 p.m. on Thursday, September 19, 1985 for the purpose of a reception sponsored in part by the Wall Street Merchants Association which officially opens the Asheville-Buncombe Discovery Office. This motion was seconded by Councilman Price, and carried unanimously.

RESOLUTION 85-170 - RESOLUTION AUTHORIZING THE CITY MANAGER TO AMEND AGREEMENT WITH WOOD AND CORT, P.A. TO INCLUDE BOILER REPLACEMENT

15. Consideration was given to a resolution authorizing the City Manager to amend agreement with Wood and Cort, P.A. to include boiler replacement.

Tuesday - September 24, 1985 - 4:00 p.m.

Regular Meeting

Present: Mayor Larry McDevitt, Presiding; Vice-Mayor Wilhelmina Bratton; Councilmen Mary Lloyd Frank, Norma T. Price, Walter R. Boland, and Louis Bissette; Corporation Counsel William F. Slawter; City Manager Neal Creighton; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Councilman Gordon Myers

INVOCATION

The invocation was given by Councilman Louis Bissette.

APPROVAL OF THE MINUTES - SEPTEMBER 17, 1985 MEETING

1. Approval of the minutes of the September 17, 1985 meeting.

Mayor McDevitt announced the approval of the minutes as submitted.

ORDINANCE NO. 1535 - AN ORDINANCE AMENDING ORDINANCE NO. 322, "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED, PROPERTY LOCATED ON CRAVEN STREET (MR. DOUGLAS CLARK, PETITIONER)

2. Consideration was given to the third reading of Ordinance No. 1535, an ordinance amending Ordinance No. 322, known as "An ordinance providing for the zoning of the City of Asheville," as amended, property located on Craven Street (Mr. Douglas Clark, Petitioner).

Mayor McDevitt said the Asheville Planning and Zoning Commission at a meeting held June 5, 1985, considered the petition of Mr. Douglas Clark, Agent for United Chemical Company, Inc., that Ward 6, Sheet 2, Lot 96 and a portion of Lot 45, be rezoned from R-3 Residential District to LI Light Industrial District. The property is located at Craven Street, Waynesville Avenue and Ridgeway Avenue. After review and discussion, the Commission voted to recommend to City Council that Ward 6, Sheet 2, Portions of Lots 96 and 45, be rezoned from R-3 Residential District to LI Light Industrial District, and that adequate buffering be provided. On September 10, 1985, a public hearing was held and this ordinance passed on first reading. This Ordinance passed on second reading on September 17, 1985.

Mayor McDevitt said this ordinance was previously read on first and second reading and would not be reread in its entirety unless there was a specific request to do so.

On a roll call vote of 6-0, Ordinance No. 1535 passed on third and final reading.

Complete text of Ordinance No. 1535 will be found in Ordinance Book No. 10 at page 303 and 304.

ADJOURNMENT

Upon motion of Councilman Price, seconded by Councilman Frank, the meeting adjourned at 4:40 p.m.

Mayor

City Clerk

PROCLAMATION - SEPTEMBER 29 - OCTOBER 5, 1985 - " PRINCE HALL MASONIC WEEK"

5. Mayor McDevitt read a proclamation proclaiming the week of September 29 - October 5, 1985 as "Prince Hall Masonic Week".

Mayor McDevitt presented the proclamation to Marvin Chambers.

RESOLUTION NO. 85-172 - RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN AN AGREEMENT EXTENDING FIRE PROTECTION SERVICES TO THE VETERAN'S ADMINISTRATION MEDICAL CENTER AT OTEEN THROUGH SEPTEMBER 30, 1986

6. Consideration was given to a resolution authorizing the City Manager to sign an agreement extending fire protection services to the Veteran's Administration Medical Center at Oteen through September 30, 1987.

Mayor McDevitt said by Resolution No. 85-9, dated January 29, 1985, the Mayor was authorized on behalf of the City to sign an agreement with Veteran's Administration Medical Center at Oteen regarding the provisions of certain fire protection services. The present agreement expires September 30, 1985. The Fire Department staff and the local Veteran's Administration Medical Center staff have negotiated a two (2) year extension of the present agreement which expires September 30, 1987. This resolution will authorize the City Manager to execute an agreement with the Veteran's Administration Medical Center for extending fire protection. He said revenues would be increased in the amount of $12,425.09 for the period October 1, 1985, to September 30, 1986.

Mayor McDevitt said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Price, seconded by Councilman Boland, Resolution No. 85-172 was unanimously adopted.

Complete text of Resolution No. 85-172 will be found in Resolution Book No. 15 at page 317.

RESOLUTION NO. 85-174 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE ON BEHALF OF THE CITY OF ASHEVILLE A FEDERAL AVIATION GRANT AGREEMENT, PROJECT NO. 3-37-0005-06

7. Consideration was given to a resolution authorizing the Mayor to execute on behalf of the City of Asheville a Federal Aviation Grant Agreement, Project No. 3-37-0005-06.

Mayor McDevitt said the Federal Aviation Administration has offered a grant agreement dated September 19, 1985, to the Asheville Regional Airport Authority in the amount of $180,000.00. The City of Asheville and the County of Buncombe are sponsors of the agreement, and the FAA requires each sponsor to execute the grant agreement. The FAA has approved a project for the airport or planning area consisting of the following: Install fence around fuel farm with automatic gates and sign; acquire snow removal equipment (front end loader); construct sanitary sewer line from emergency equipment storage building to trunk sewer (1,100 L.F.); expand vehicle storage building (30 foot by 40 foot). This resolution will authorize the Mayor to execute said grant agreement.

ORDINANCE NO. 1537 - AN ORDINANCE PROHIBITING SMOKING ON CITY PUBLIC TRANSPORTATION

3. Consideration was given to a ordinance prohibiting smoking on City public transportation.

Mayor McDevitt said this ordinance will prohibit smoking on Asheville Transit Authority buses for health and cleanliness reasons.

Carl Ownbey, with the Asheville Transit Authority, said many complaints had been received from the elderly and visitors in the area relative to smoking on City buses. He said signage of "no smoking" is on the buses, but no enforcement is available. He said there are litter problems and cigarette burns on the buses. He said other cities have adopted ordinances prohibiting smoking on City buses, and they have had no problems with enforcement.

Walter Renfroe, Chairman of the Asheville Transit Authority, said this ordinance would provide enforcement for no smoking on the City buses.

Mayor McDevitt said members of Council were furnished copies of the ordinance and it would not be read in its entirety.

Vice-Mayor Bratton moved for the adoption of Ordinance No. 1537. This motion was seconded by Councilman Frank.

On a roll call vote of 6-0, Ordinance No. 1537 passed on first reading.

RESOLUTION NO. 85-171 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE RENTAL AGREEMENTS WITH DRS. McCALL AND WITTEN FOR OFFICE SPACE IN THE CITY BUILDING

4. Consideration was given to a resolution authorizing the City Manager to execute rental agreements with Drs. McCall and Witten for office space in the City Building.

Mayor McDevitt said this resolution will authorize the City Manager to execute lease agreements with Dr. E. R. S. Witten and Dr. William H. McCall for office space located on the sixth floor of the City Building. He said the monthly fee from Dr. McCall is $1,034.50 and monthly fee from Dr. Witten is $247.50.

Mayor McDevitt said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Frank, seconded by Councilman Bissette, Resolution No. 85-171 was unanimously adopted.

Complete text of Resolution No. 85-171 will be found in Resolution Book No. 15 at page 316.

RESOLUTION NO. 85-173 - RESOLUTION OF APPRECIATION TO NEAL CREIGHTON

8. Consideration was given to a Resolution of Appreciation to Neal Creighton.

Mayor McDevitt read the resolution.

Mayor McDevitt presented a copy of the resolution and a book entitled "Asheville, a Pictorial History" to resigning City Manager, Neal Creighton.

Upon motion of Vice-Mayor Bratton, seconded by Councilman Bissette, Resolution No. 85-173 was unanimously adopted.

Complete text of Resolution No. 85-173 will be found in Resolution Book No. 15 at Page 318.

ADJOURNMENT

Upon motion of Councilman Price, seconded by Councilman Frank, the meeting adjourned at 4:30 p.m.

MAYOR

CITY CLERK

Mayor McDevitt read the resolution.

Upon motion of Councilman Boland, seconded by Councilman Bissette, Resolution No. 85-174 was unanimously adopted.

Complete text of Resolution No. 85-174 will be found in Resolution Book No. 15 at page 319.

CLAIMS - CORNELIA STREETER (STREETS) - JACK McCURRY (WATER) - MRS. JACK STEELE (SEWER) - FRAME SHOPPE (WATER)

The City Manager presented claims received from Cornelia Streeter, Jack McCurry, Mrs. Jack Steele, and the Frame Shoppe.

Mayor McDevitt referred the claims to the Corporation Counsel for investigation and recommendation.

RALPH BISHOP - COMMENTS RELATIVE TO THE ASHEVILLE POLICE DEPARTMENT AND THE RESIGNING CITY MANAGER

Ralph Bishop spoke to members of Council relative to the Asheville Police Department, the resigning City Manager, and lottery sales within the City of Asheville.

HOLIDAY FOR CITY OF ASHEVILLE - EMPLOYEES - MEMORIAL DAY

Mayor McDevitt said "almost eighteen (18) months ago, City Council began a total re-examination of our City personnel system. As you recall, we have made a number of changes, including a total personnel reclassification and salary structure. Part of our work included an examination of City holiday policies. We found at that time that Buncombe County and the State of North Carolina had eleven (11) official holidays and the Federal Government had ten (10) official holidays, while the City workers only had eight (8). We decided to re-examine that policy and concluded that additional holidays were in order, both for community significance, and as additional employee benefits. Having adopted one (1) additional holiday to date, bringing City holidays to nine (9), it is my hope that you will adopt my recommendation to you that we complete our work in this area by fixing and holding the number of official City holidays at ten (10). In that connection, I would also recommend that we move today to fill the ten (10) holiday schedule by adopting Memorial Day as a City Holiday. My personal feeling, as well as my informal pool of employees and surrounding community sentiment, suggests that this would be a most appropriate day to emphasize in our community. In doing this, I do want to clarify a mistaken impression created in recent news articles to the effect that the approval of the King Holiday replaced Memorial Day as a holiday. Such was not the case. Memorial Day has never been a City holiday and the only issue before Council two weeks ago was whether or not to approve the Civil Service Board's action, recommended by us, to establish the King Holiday."

Councilman Frank moved that the Asheville City Council request the Civil Service Board to take the appropriate action pursuant to Section 4 of the Civil Service Law in order to amend Civil Service Rule 17 (j) so as to establish Memorial Day as an additional holiday for City employees. This motion was seconded by Councilman Price and carried unanimously.

PROCLAMATION - OCTOBER 6 - 12, 1985 - "MINORITY ENTERPRISE DEVELOPMENT WEEK"

6. Mayor McDevitt read a proclamation proclaiming October 6-12, 1985, as "Minority Enterprise Development Week".

Mayor McDevitt presented a copy of the proclamation to Don Schronce, Coordinator for the Asheville Business Development Center.

RESOLUTION NO. 85-175 - RESOLUTION OF APPRECIATION TO VERNON FRADY, RETIRING EMPLOYEE OF THE CITY OF ASHEVILLE

7. Consideration was given to a resolution of appreciation to Vernon Frady, retiring employee of the City of Asheville.

Mayor McDevitt read the resolution stating that Vernon Frady was employed by the City of Asheville for more than 30 years in the Parks Maintenance Division and retired on September 16, 1985.

Upon motion of Councilman Boland, seconded by Councilman Price, Resolution No. 85-175 was unanimously adopted.

Complete text of Resolution No. 85-175 will be found in Resolution Book No. 15 at page 320.

Mayor McDevitt and members of Council presented a copy of the resolution to Mr. Vernon Frady.

PUBLIC HEARING - REZONING PROPERTY LOCATED ON OLD CHUNNS COVE ROAD

ORDINANCE NO. 1538 - AN ORDINANCE AMENDING NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE" AS AMENDED - PROPERTY LOCATED ON OLD CHUNNS COVE ROAD (LARRY BUCKNER PETITION)

8. A public hearing was held relative to rezoning property located on Old Chunns Cove Road.

Mayor McDevitt said the Asheville Planning and Zoning Commission at a meeting held August 7, 1985, considered the petition of Mr. Larry Buckner, Buckner Associates, that Ward 8, Sheet 25, Lot 26, be rezoned from R-1 Residential District to R-2 Residential District. The property is located on Old Chunns Cove Road. After review and discussion, the Commission voted to recommend to City Council that Ward 8, Sheet 25, Lot 26, be rezoned from R-1 Residential District to R-2 Residential District.

Mayor McDevitt opened the public hearing at 4:33 p.m.

The Deputy City Clerk presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said the Asheville Planning and Zoning Commission at its meeting of August 7, 1985, recommended that the property be rezoned as petitioned. He said no opposition had been received relative to the rezoning. By the use of a map, Mr. Emrick showed members of Council the property requested to be rezoned.

Tuesday - October 1,1985 - 4:00 p.m.

Regular Meeting

Present: Mayor Larry McDevitt, Presiding; Vice-Mayor Wilhelmina Bratton; Councilmen Mary Lloyd Frank, Norma T. Price, Gordon Myers, Walter R. Boland; Corporation Counsel William F. Slawter; and Acting City Manager William F. Wolcott, Jr; Deputy City Clerk Carol Hensley.

Absent: Councilman Louis Bissette

INVOCATION

The invocation was given by Councilman Norma Price.

APPROVAL OF THE MINUTES - SEPTEMBER 24, 1985 MEETING

1. Approval of the minutes of the September 24, 1985 meeting.

Mayor McDevitt noted a typographical error on page 133 of the minutes of the September 24, 1985 meeting.

Mayor McDevitt announced approval of the minutes as amended.

BLUE AND GREY BARBERSHOPPERS QUARTET - SING

2. Members of the Blue and Grey Barbershoppers Quartet sang two songs for members of Council. This was in connection with the Barbershoppers Quartet Convention being held in Asheville, October 3, 4 & 5, 1985.

PROCLAMATION - OCTOBER 6 - 12, 1985 - "OSTEOPOROSIS AWARENESS WEEK"

3. Mayor McDevitt read a proclamation proclaiming October 6-12, 1985, as "Osteoporosis Awareness Week".

Mayor McDevitt presented a copy of the proclamation to Lillian G. Williams, Assistant State Director for AARP.

PROCLAMATION - OCTOBER 6 - 12, 1985 - "EMPLOY THE HANDICAPPED WEEK"

4. Mayor McDevitt proclaimed the week of October 6-12, 1985, as "Employ the Handicapped Week".

PROCLAMATION - OCTOBER 6 - 12, 1985 - "MENTAL ILLNESS AWARENESS WEEK"

5. Mayor McDevitt read a proclamation proclaiming the week of October 6-12, 1985, as "Mental Illness Awareness Week".

Mayor McDevitt presented a copy of the proclamation to Jack Matthews, Chairperson for the Western Carolina Alliance for the Mentally Ill.

ORDINANCE NO. 1539 - AN ORDINANCE CREATING THE ASHEVILLE FAIR HOUSING COMMISSION

11. Consideration was given to an ordinance creating the Asheville Fair Housing Commission.

Mayor McDevitt said the City Council of the City of Asheville finds it in the public interest to promote fair housing practices in the City. The City Council desires to prevent discriminatory practices against any person in a real estate transaction. The U. S. Department of Housing and Urban Development has for many years encouraged and supported anti-discrimination initiatives through grant programs to the City designed to ensure equal opportunity for all citizens. The City Council of the City of Asheville does desire to create a Commission to be known as the Asheville Fair Housing Commission as authorized in Chapter 776, Sections, 1, 2 and 3 of the General Statutes of North Carolina.

Mayor McDevitt said members of Council were furnished copies of the ordinance and it would not be read in its entirety.

A discussion was held relative to the term of office for the Chairman of the Commission. It was determined that a decision relative to the length of term for the Chairman would be discussed at the October 8, 1985 meeting.

Mayor McDevitt answered questions from Ralph Bishop relative to the ordinance.

Councilman Boland moved for the adoption of Ordinance No. 1539. This motion was seconded by Councilman Price.

On a roll call vote of 6-0, Ordinance No. 1539 passed on first reading.

RANKIN STREET PARKING BONDS

12. Consideration was given to action relative to the issuance of the $885,000 Rankin Street Parking Bonds.

There was introduced in written form the following order authorizing bonds which was read:

ORDINANCE NO. 1540

ORDER AUTHORIZING $885,000 RANKIN STREET PARKING BONDS

BE IT ORDERED by the Council of the City of Asheville:

Section 1. That, pursuant to The Local Government Bond Act, as amended, the City of Asheville, North Carolina, is hereby authorized to contract a debt, in addition to any and all other debt which said City may now or hereafter have power or authority to contract, and in evidence thereof to issue Rankin Street Parking Bonds in an aggregate principal amount not exceeding $885,000 for the purpose of providing funds, with any other available funds, for purchase of land and constructing a structure for public parking at the Rankin-College Street intersection in Asheville, North Carolina.

Mayor McDevitt closed the public hearing at 4:35 p.m.

Mayor McDevitt said members of Council were furnished copies of the ordinance and it would not be read in its entirety.

Councilman Frank moved for the adoption of Ordinance No. 1538. This motion was seconded by Councilman Boland.

On a roll call vote of 6-0, Ordinance No. 1538 passed on first reading.

PUBLIC HEARING - REZONING PROPERTY LOCATED ON HENDERSONVILLE ROAD - BILTMORE DAIRY FARMS, INC.

9. A public hearing was held relative to rezoning property located on Hendersonville Road - Biltmore Dairy Farms, Inc.

Mayor McDevitt said the Asheville Planning and Zoning Commission at a meeting held August 7, 1985, considered the petition of Attorney Philip Carson for Biltmore Diary Farms, Inc. that Ward 7, Sheet 52, Lot 169, be rezoned from R-2 Residential District to CH Commercial Highway District. The property is located on Hendersonville Road. After review and discussion, the Commission voted to recommend to City Council that Ward 7, Sheet 52, Lot 169, be rezoned from R-2 Residential District to CH Commercial Highway District.

Mayor McDevitt opened the public hearing at 4:36 p.m.

The Deputy City Clerk presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Mayor McDevitt noted that a request had been received from Philip Carson, Attorney for the petitioner, Biltmore Dairy Farms, Inc., requesting that the public hearing be continued for one week.

Councilman Boland moved to continue the public hearing relative to rezoning property located on Hendersonville Road - Biltmore Dairy Farms, Inc. until October 8, 1985, without further advertisement. This motion was seconded by Councilman Price and carried unanimously.

ORDINANCE NO. 1537 - AN ORDINANCE PROHIBITING SMOKING ON CITY PUBLIC TRANSPORTATION

10. Consideration was given to the second reading of Ordinance No. 1537, an ordinance prohibiting smoking on City Public Transportation.

Mayor McDevitt said this ordinance will prohibit smoking on Asheville Transit Authority buses for health and cleanliness reasons. This ordinance passed on first reading on September 24, 1985.

Mayor McDevitt said this ordinance was previously read on first reading and would not be reread in its entirety unless there was a specific request to do so.

On a roll call vote of 6-0, Ordinance No. 1537 passed on second reading.

Section 2. That this resolution, being a resolution directing administrative action, shall take effect immediately.

_____
Mayor

_____
City Clerk

Approved as to form:

_____
Corporation Counsel

Upon motion of Vice-Mayor Bratton, seconded by Councilman Price, the foregoing resolution entitled: "RESOLUTION DESIGNATING THE DIRECTOR OF FINANCE TO PREPARE AND FILE THE SWORN STATEMENT OF DEBT" was passed by the following vote:

Ayes: Councilmen: Mary Lloyd Frank, Norma T. Price, Walter R. Boland, Gordon Myers, Mayor Larry McDevitt, Vice-Mayor Wilhelmina Bratton.

Noes: None

Thereupon the Director of Finance filed with the City Clerk, in the presence of the Council, the Sworn Statement of Debt as so required, which statement is attached to and made a part of these minutes.

Thereupon Councilman Price introduced in written form the following resolution which was read:

RESOLUTION NO. 85-177

RESOLUTION PROVIDING FOR A PUBLIC HEARING UPON AN ORDER AUTHORIZING $885,000 RANKIN STREET PARKING BONDS AND DIRECTING THE CITY CLERK TO PUBLISH SAID ORDER TOGETHER WITH A STATEMENT GIVING NOTICE OF SAID HEARING

BE IT RESOLVED by the Council of the City of Asheville:

Section 1. That a public hearing upon the order entitled: "ORDER AUTHORIZING $885,000 RANKIN STREET PARKING BONDS" shall be held at 4:00 o'clock p.m., on October 22, 1985, at the City Hall in Asheville, North Carolina, at which the Council shall hear anyone who may wish to be heard on the question of the validity of said order or the advisability of issuing said bonds.

Section 2. That said public hearing may be adjourned from time to time.

Section 3. That the City Clerk be and he is hereby directed to publish said order, together with the appended statement giving notice of said hearing as required by The Local Government Bond Act, as amended, once

Section 2. That taxes shall be levied in an amount sufficient to pay the principal of and the interest on said bonds.

Section 3. That a Sworn Statement of Debt of the City has been filed with the City Clerk and is open to public inspection.

Section 4. That this order shall take effect 30 days after its publication following adoption, unless it is petitioned to a vote of the people as provided in North Carolina General Statutes, Sec. 159-60, and that in that event the order will take effect when approved by the voters of the City at a referendum as provided in said Act.

Thereupon, upon motion of Councilman Frank, seconded by Councilman Price, the order entitled: "ORDER AUTHORIZING $885,000 RANKIN STREET PARKING BONDS," as hereinabove set forth, was passed upon its first reading by the following vote:

Ayes: Councilmen: Mary Lloyd Frank, Norma T. Price, Walter R. Boland, Gordon Myers, Mayor Larry McDevitt, Vice-Mayor Wilhelmina Bratton.

Noes: None

Thereupon, upon motion of Vice-Mayor Wilhelmina Bratton, seconded by Councilman Price, the requirement of the Charter that ordinances be read on three separate days was dispensed with by the following vote, being not less than two-thirds of the members of the Council:

Ayes: Councilmen: Mary Lloyd Frank, Norma T. Price, Walter R. Boland, Gordon Myers, Mayor Larry McDevitt, Vice-Mayor Wilhelmina Bratton.

Noes: None

Thereupon, upon motion of Councilman Frank, seconded by Councilman Price, the order entitled: "ORDER AUTHORIZING $885,000 RANKIN STREET PARKING BONDS," as hereinabove set forth, was read a second time and was passed upon its second reading by the following vote:

Ayes: Councilmen: Mary Lloyd Frank, Norma T. Price, Walter R. Boland, Gordon Myers, Mayor Larry McDevitt, Vice-Mayor Wilhelmina Bratton.

Noes: None

There was introduced in written form the following resolution which was read:

RESOLUTION NO. 85-176 - RESOLUTION DESIGNATING THE DIRECTOR OF FINANCE TO PREPARE AND FILE THE SWORN STATEMENT OF DEBT

BE IT RESOLVED by the Council of the City of Asheville:

Section 1. That the Director of Finance be and he is hereby designated as the officer who shall prepare and file with the City Clerk the Sworn Statement of Debt of the City of Asheville which is required by The Local Government Bond Act, as amended, to be filed after a Bond Order has been introduced and before the public hearing thereon.

Lots 105-C and 127 are to be developed with a single family homes for resale. The eventual purchasers of the completed homes will be able to obtain the Dollar-A-Lot subsidy.

Lot 105-D is a residential lot sale for a single family structure under the Incentive Housing Program.

Councilman Price moved to approve the sale of disposal parcels 113, 105-C, 105-D, and 127 in the East Riverside Urban Renewal area. This motion was seconded by Councilman Frank and carried unanimously.

APPROVAL OF THE CONSENT AGENDA

14. Consideration of a motion approving the consent agenda.

Mayor McDevitt said the following items are of a routine nature, and they have been previously reviewed by the members of the City Council. Therefore, by unanimous vote to approve these items, the City Council may, pursuant to the procedures established in Ordinance No. 1008, adopt all of the items with one motion without the full reading and/or separate motion adopting each individual item. Upon the request of a citizen, a member of the City Council, and/or a member of the City staff, any single item scheduled for approval on the consent agenda may be considered separately.

RESOLUTION NO. 85-178

A. Resolution authorizing the Mayor to make application for State sewer grant funds for the City of Asheville Sewer Master Plan Project.

HIGHLIGHTS: The State has recently appropriated grant funds for eligible sewer projects to counties and municipalities. Such grants are to be made for eligible projects on a 50% matching basis. The recently adopted Sewer Master Plan is such an eligible project.

FISCAL IMPACT: The receipt of this grant ($749,762) would extend existing sewer construction resources.

Complete text of Resolution No. 85-178 will be found in Resolution Book No. 15 at page 323.

B. Motion scheduling a public hearing for rezoning property located on Hazel Mill Road for October 15, 1985.

HIGHLIGHTS: The Asheville Planning and Zoning Commission at a meeting held September 11, 1985, considered the petition of Attorney S. J. Crow for Trustees of the Theodore Freeman Estate that Ward 6, Sheet 16, Lots 456, and 467, be rezoned from R-3 Residential District to CH Commercial Highway District. The property is located on Hazel Mill Road. After review and discussion, the Commission voted to recommend that the petition be denied and the property remain as it is now zoned. However, the petitioner has filed an appeal of the decision of the Planning and Zoning Commission, and has requested the City Council to hold a public hearing relative to the rezoning.

in The Asheville Times not later than the sixth day before the date of said public hearing.

_____
Mayor

_____
City Clerk

Approved as to form:

_____
Corporation Counsel

Upon motion of Councilman Price, seconded by Councilman Boland, the foregoing resolution entitled: "RESOLUTION PROVIDING FOR A PUBLIC HEARING UPON AN ORDER AUTHORIZING $885,000 RANKIN STREET PARKING BONDS AND DIRECTING THE CITY CLERK TO PUBLISH SAID ORDER TOGETHER WITH A STATEMENT GIVING NOTICE OF SAID HEARINGS" was passed by the following vote:

Ayes: Councilmen: Mary Lloyd Frank, Norma T. Price, Walter R. Boland, Gordon Myers, Mayor Larry McDevitt, Vice-Mayor Wilhelmina Bratton.

Noes: None

Thereupon the resolution entitled: "RESOLUTION DESIGNATING THE DIRECTOR OF FINANCE TO PREPARE AND FILE THE SWORN STATEMENT OF DEBT," the resolution entitled: "RESOLUTION PROVIDING FOR A PUBLIC HEARING UPON AN ORDER AUTHORIZING $885,000 RANKIN STREET PARKING BONDS AND DIRECTING THE CITY CLERK TO PUBLISH SAID ORDER TOGETHER WITH A STATEMENT GIVING NOTICE OF SAID HEARING," were authenticated by the signatures of the Mayor and the City Clerk, and the Corporation Counsel endorsed upon said resolutions his approval of the forms thereof.

SALE OF DISPOSAL PARCELS 113, 105-C, 105-D, AND 127 - EAST RIVERSIDE URBAN RENEWAL AREA

13. Consideration was given to a motion approving the sale of Disposal Parcels 113, 105-C, 105-D and 127 in the East Riverside Urban Renewal area.

Mayor McDevitt said the Housing Authority has tentatively accepted the following bids for certain disposal parcels in the East Riverside Urban Renewal area.

Parcel	Reuse	Price	Bid	Redeveloper
113	Residential	$1,200.00	$1,200.00	Burnell Freeman
105-C	Residential	3,575.00	3,625.00	R & R Associates
105-D	Residential	5,425.00	5,425.00	James & Pamela Vernon
127	Residential	1,800.00	1,850.00	R & R Associates

Lot 113 is a residential lot sale to an adjacent property owner to provide additional garden space. Appropriate landscaping will be done, but no construction is planned.

Mayor McDevitt said the boilers which heat the City Hall Building are old and in need of replacement. It is necessary to execute various contracts for the construction and repair involving the replacement of the boilers. Part of the construction and repair project involves the removal of asbestos in the boiler room area to enable the replacement of the boiler. The City of Asheville has solicited informal bids from two companies licensed to remove the asbestos in the boiler room area. Those bids have been reviewed, and City staff recommends that City Council award the bid to NEO Corporation as the lowest responsible bidder. This resolution will authorize the interim City Manager to execute an agreement for removal of asbestos in the boiler room area for the Boiler Replacement Project in the City Hall Building.

Upon motion of Councilman Frank, seconded by Councilman Myers, Resolution No. 85-181 was unanimously adopted.

Complete text of Resolution No. 85-181 will be found in Resolution Book No. 15 at page 326.

CLAIMS - JUDY STRICKLAND (WATER)

The Acting City Manager presented a claim received from Judy Strickland.

Mayor McDevitt referred the claim to the Corporation Counsel for investigation and recommendation.

LAWSUITS - HARRY BRUMMER vs. CITY OF ASHEVILLE (APPEAL OF BOARD OF ADJUSTMENTS ORDER)

The Acting City Manager said the City of Asheville was served with a summons in connection with a lawsuit involving Harry Brummer v. City of Asheville relative to an appeal of the Board of Adjustments' order affirming revocation of a zoning permit.

Mayor McDevitt referred the summons to the Corporation Counsel for investigation and recommendation.

RALPH BISHOP - LOTTERY SALES IN THE CITY OF ASHEVILLE

Ralph Bishop again spoke to members of Council relative to the lottery sales in the City of Asheville.

ADJOURNMENT TO EXECUTIVE SESSION

Upon motion of Vice-Mayor Bratton, seconded by Councilman Frank, the meeting adjourned to executive session at 5:35 p.m.

MAYOR

CITY CLERK

C. Motion to schedule a public hearing on a site plan of the proposed Sweeten Creek Village Apartments to be located on Sweeten Creek Road for October 15, 1985.

HIGHLIGHTS: The Asheville Planning and Zoning Commission at a meeting held August 21, 1985, reviewed the site plan of the proposed Sweeten Creek Village Apartments to be located on Sweeten Creek Road. The site plan was prepared by Mills, Oliver and Webb, Inc., Blacksburg, Virginia, Architects-Engineers, for Pralin and Waldron, Inc., Roanoke, Virginia, Developers, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of the site plan to City Council subject to the following conditions: 1) final approval of entrance off Sweeten Creek Road from North Carolina Department of Transportation; and 2) compliance with the Erosion Control Ordinance.

RESOLUTION NO. 85-179

D. Resolution appointing a member to the Asheville Transit Authority.

HIGHLIGHTS: The term of Roy Meece expired on February 12, 1985. This resolution will appoint Mrs. Wanda Winslow as a member of the Asheville Transit Authority.

Complete text of Resolution No. 85-179 will be found in Resolution Book No. 15 at page 324.

RESOLUTION NO. 85-180

E. Resolution authorizing the barricading of a portion of Booker Street on October 2, 1985.

HIGHLIGHTS: This resolution will authorize the closing of Booker Street between Caribou Road and West Chapel Road October 2 from 11:00 A.M. until 12:00 Noon for the purpose of a performance by the Asheville High School Band and the ROTC Drill Team at the Venus Lodge Masonic Lodge Hall.

Complete text of Resolution No. 85-180 will be found in Resolution Book No. 15 at page 325.

Upon motion of Councilman Price, seconded by Councilman Frank, the Consent Agenda was unanimously adopted.

RESOLUTION 85-181 - RESOLUTION AUTHORIZING THE INTERIM CITY MANAGER TO EXECUTE AN AGREEMENT BY AND BETWEEN THE CITY OF ASHEVILLE AND NEO CORPORATION FOR THE REMOVAL OF ASBESTOS IN THE BOILER REPLACEMENT PROJECT

15. Consideration was given to a resolution authorizing the interim City Manager to execute an agreement by and between the City of Asheville and NEO Corporation for the removal of asbestos in the Boiler Replacement Project.

SWORN STATEMENT OF DEBT (continued)

For City of Asheville, North Carolina

SCHEDULE OF GROSS DEBT

(The debt described below should not include debt incurred or to be incurred in anticipation of the collection of taxes or other revenues or in anticipation of the sale of bonds other than funding and refunding bonds. The debt described below should not include revenue bonds.)

A. Outstanding debt evidenced by bonds:

Purpose	Amount	
Water	7,040,000	
Electric		
Gas		
Sanitary Sewer		
Other	3,930,000	Total $ 10,970,000

B. Bonds authorized by orders introduced but not yet adopted:

Date Introduced	Purpose	Amount	
10/01/85	Parking Deck	885,000	
			Total $ 885,000

C. Unissued bonds authorized by adopted orders:

Date Introduced	Purpose	Amount	
			Total $ -0-

D. Outstanding debt not evidenced by bonds:

Date Incurred	Purpose	Amount	
	Capitalized Lease Commitments		Total $ 879,882
			$ 12,734,882

LGC-109

SWORN STATEMENT OF DEBT

Made pursuant to the Local Government Bond Act, as Amended,

For City of Asheville, **North Carolina**

I, Larry A. Fisher (Name), Finance Director (Office) of the City of Asheville, North Carolina, having been designated by the City Council (Governing Body) for said City of Asheville (City/Town/County) to make and to file with the Clerk to the governing body a statement of debt of said City of Asheville (City/Town/County) pursuant to the Local Government Bond Act, as amended, DO HEREBY CERTIFY that the following is a true statement as shown by the books in my office, not taking into consideration any debt incurred or to be incurred in anticipation of bonds other than funding and refunding bonds.

A.	Gross Debt as listed in the attached "Schedule of Gross Debt",	$ 12,734,882
B.	Deductions to be made from Gross Debt as listed in the attached "Schedule of Deductions".	$ 7,040,000
C.	Net Debt being the difference between Gross Debt and Deductions.	$ 5,694,882
D.	Appraised Value of property subject to taxation before the application of any assessment ratio, being the value from which the assessed value was last fixed for taxation as revealed by the County tax records and certified by the County Tax Supervisor.	$1,630,241,806
E.	Percentage that Net Debt bears to the appraised value of property subject to taxation.	$ 0.35%

Larry A Fisher (Signature) October 1, 1985 (Date)

LGC-109

SWORN STATEMENT OF DEBT (continued)

STATE OF NORTH CAROLINA)
) ss.:
COUNTY OF BUNCOMBE)

Larry A. Fisher, being duly sworn, says that he is the Director of Finance of the City of Asheville in the State of North Carolina; that by a bond order introduced by the City Council of said City of Asheville he was authorized to make the foregoing statement; and that the foregoing statement is true and was made and subscribed by him.

Larry A. Fisher

Sworn to and subscribed before me
on the day of the date of said statement

Carrie J. Hensley
(Notary Public)

My commission expires the 13th day of December, 19 86.

STATE OF NORTH CAROLINA)
) ss.:
COUNTY OF BUNCOMBE)

I, the undersigned William F. Wolcott, Jr., City Clerk of the City of Asheville in the State of North Carolina, DO HEREBY CERTIFY that the foregoing statement and accompanying affidavit were filed in my office on the 1st day of October, 19 85.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said ~~County~~ City, this 4th day of October, 19 85.

William F. Wolcott, Jr.

109

SWORN STATEMENT OF DEBT (continued)

For City of Asheville, North Carolina

SCHEDULE OF DEDUCTIONS

A.	Funding and refunding bonds authorized by orders introduced but not yet adopted.	$ -0-
B.	Funding and refunding bonds authorized but not issued.	$ -0-
C.	Amount held in sinking funds or otherwise for the payment of gross debt other than debt incurred for water, gas, electric light or power purposes or sanitary sewer purposes (to the extent deductible under Section 159-55 [b] of The Local Government Finance Act), or two or more of these purposes.	$ -0-
D.	Bonded debt included in gross debt and incurred or to be incurred for water, gas or electric light or power purposes, or any two or more of these purposes.	$ 7,040,000
E.	Bonded debt included in gross debt and incurred or to be incurred for sanitary sewer system purposes (to the extent deductible by subsection [b] of Section 159-55 of The Local Government Finance Act).	$ -0-
F.	Uncollected special assessments levied for local improvements for which gross debt (that is not otherwise deducted) was or is to be incurred, to the extent it will be applied, when collected, to the payment of such gross debt.	$ -0-
G.	Estimate of special assessments to be levied for local improvements for which any part of gross debt (that is not otherwise deducted) was or is to be incurred, to the extent that the special assessments when collected, will be applied to the payment of any part of gross debt.	$ -0-
	Total	$ 7,040,000

Mayor McDevitt said the Asheville Planning and Zoning Commission at a meeting held August 7, 1985, considered the petition of Attorney Philip Carson for Biltmore Dairy Farms, Inc. that Ward 7, Sheet 52, Lot 169, be rezoned from R-2 Residential District to CH Commercial Highway District. The property is located on Hendersonville Road. After review and discussion, the Commission voted to recommend to City Council that Ward 7, Sheet 52, Lot 169, be rezoned from R-2 Residential District to CH Commercial Highway District. On October 1, 1985, at the request of Attorney Philip Carson and the petitioner, Biltmore Diary Farms, Inc., the public hearing was continued until October 8, 1985.

Verl Emrick, Director of Planning, said the Planning and Zoning Commission had recommended approval of the rezoning. He presented an Environmental Impact Statement from the North Carolina Department of Transportation stating that the Department has scheduled the widening of Hendersonville Road and would be making a right-of-way recommendation of 0' to 40' from the existing right-of-way for the widening. He said at the present time there is no specific design for the widening of the roadway; however, the project is scheduled for design in 1987 and acquisition in 1989.

Councilman Bissette expressed concern relative to right-of-way protection for the North Carolina Department of Transportation. He said since this property abuts Hendersonville Road, and the North Carolina Department of Transportation proposes to widen said road; he requested that Mr. Emrick seek input from the North Carolina Department of Transportation relative to this rezoning prior to the second reading of the ordinance.

Upon inquiry of Councilman Price, Mr. Emrick said there are no specific uses proposed for the property. He said the petitioners feel the property is unsuitable for residential purposes.

Attorney Phil Carson, representing Biltmore Dairy Farms, Inc., spoke in support of the rezoning stating that his client has no proposed use for the property at the present time. He said the proposed use would be contingent upon the rezoning.

After discussion, Mayor McDevitt closed the public hearing at 4:26 p.m.

Mayor McDevitt said members of Council were furnished copies of the ordinance and it would not be read in its entirety.

Vice-Mayor Bratton moved for the adoption of Ordinance No. 1541. This motion was seconded by Councilman Bissette.

On a roll call vote of 6-0, Ordinance No. 1541 passed on first reading.

Tuesday - October 8, 1985 - 4:00 p.m.

Regular Meeting

Present: Mayor Larry McDevitt, Presiding; Vice-Mayor Wilhelmina Bratton; Councilmen Mary Lloyd Frank, Norma T. Price, Gordon Myers, and Louis Bissette; Corporation Counsel William F. Slawter; City Manager William F. Wolcott, Jr.; Deputy City Clerk Carol Hensley.

Absent: Councilman Walter R. Boland

INVOCATION

The invocation was given by Mayor Larry McDevitt.

APPROVAL OF THE MINUTES - OCTOBER 1, 1985 MEETING

1. Approval of the minutes of the October 1, 1985, meeting.

Mayor McDevitt announced the approval of the minutes as submitted.

PROCLAMATION - WEEK OF OCTOBER 6, 1985 - "FIRE PREVENTION WEEK"

2. Mayor McDevitt read a proclamation proclaiming the week of October 6, 1985, as "Fire Prevention Week".

Mayor McDevitt presented the proclamation to Chief Powell Ball of the Asheville Fire Department.

PROCLAMATION - OCTOBER 11 - 13, 1985 - "CROP WALK WEEKEND"

2a. Mayor McDevitt recognized Virginia Stevens, Coordinator of the Crop Walk Weekend.

Virginia Stevens said "Crop Walk Weekend" is held to help local hunger-fighting agencies receive local designated Crop Walk funds. She said 25% of the donations would go to Meals On Wheels and ABCCM, and 75% of the donations would go to the Hunger Abroad. She urged members of Council and the citizens of Asheville to walk or to sponsor a prisoner from Craggy Prison who will be walking on Saturday, October 12, 1985.

Mayor McDevitt proclaimed October 11 - 13, 1985, as "Hunger Fighting Weekend" (Crop Walk Weekend).

CONTINUATION OF PUBLIC HEARING - REZONING PROPERTY LOCATED ON HENDERSONVILLE ROAD - BILTMORE DAIRY FARMS, INC.

ORDINANCE NO. 1541 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE", AS AMENDED - PROPERTY LOCATED ON HENDERSONVILLE ROAD (ATTORNEY CARSON FOR BILTMORE DAIRY FARMS, INC.)

3. A public hearing relative to the rezoning of property located on Hendersonville Road - Biltmore Dairy Farms, Inc. was continued.

Upon inquiry of Kathryn Grooms, resident of Asheville and merchant on Wall Street, Mayor McDevitt answered questions relative to the entire site plan being approved by Council and the existing parking lots on Wall Street.

Gary Brady, businessman on Wall Street, spoke in opposition of the plan stating that projects like these push prices up.

Chuck Tessier, with Stietler-Tessier Associates, spoke in support of the plan stating that his firm is very pleased that everyone is working together for the redevelopment of downtown.

Mayor McDevitt closed the public hearing at 5:27 p.m.

Mayor McDevitt said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Vice-Mayor Bratton moved for the adoption of Resolution No. 85-182 approving and adopting the redevelopment plan for the Haywood/Wall Street Redevelopment Project as described by Larry Holt. This motion was seconded by Councilman Frank, and carried unanimously.

It was noted that the financing plan on pages 25 and 26 of the redevelopment plan would be as follows:

PROJECT COSTS

Public Acquisition and Relocation	$ 500,000
Public Improvements	524,000
Construction: Restoration & Parking	29,438,000
Total Costs	$30,462,000

The method of financing would be:

Public Funds (City and County)	$ 3,462,000
Redevelopment Bond Issue	20,750,000
Private Funds	6,250,000
Total Funding	$30,462,000

It was noted that "as the redevelopment bonds will be issued to finance the acquisition, restoration, rehabilitation and upgrading of existing property in the project area by private developers, said developers will pay all costs associated with the issuance and placement of the redevelopment bonds, including, but not limited to, the professional fees of bond counsel."

Complete text of Resolution No. 85-182 will be found in Resolution Book No. 15 at pages 327 and 328.

PUBLIC HEARING - ADOPTION OF REDEVELOPMENT PLAN - HAYWOOD/WALL STREET REDEVELOPMENT PROJECT

RESOLUTION NO. 85-182 - RESOLUTION APPROVING AND ADOPTING THE REDEVELOPMENT PLAN FOR THE HAYWOOD/WALL STREET REDEVELOPMENT PROJECT

4. A public hearing was held relative to the adoption of a redevelopment plan for the Haywood/Wall Street Redevelopment Project.

Mayor McDevitt said the City has entered into an agreement with several developers for redevelopment projects in the Haywood Street and Wall Street area. There are other proposed redevelopment projects for this area as well. Some of the developers will be using redevelopment bonds as partial financing for their projects. In order to secure redevelopment bonds and to carry out redevelopment projects in the area, it is necessary to consider the adoption and approval of a redevelopment plan for the project area, all pursuant to the North Carolina Urban Redevelopment law as found in the N. C. General Statutes Sections 160A-500 et. seq. Public funds for the Haywood/ Wall Street Redevelopment Plan total $2,992,000 ($272,000 of which is included as "Project Contingency"). Funds will come from CDBG, General Revenue Sharing, proceeds of a "2/3 Bond Issue", Buncombe County funding and Loan Repayments from UDAG's. $2,200,000 will be used towards a proposed parking deck on Rankin Avenue between Walnut Street and College Street. The balance, excluding contingency funds, will be used for street, sidewalk and other public improvements.

Mayor McDevitt opened the public hearing at 4:28 p.m.

The Deputy City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Larry Holt, Deputy Executive Director of the Asheville Housing Authority, gave an in-depth, detailed presentation of the Haywood/Wall Street Redevelopment Plan.

Note: A copy of the Redevelopment Plan for the Haywood/Wall Street Redevelopment Project is on file in the Office of the City Clerk.

Upon inquiry of Ralph Bishop, Mayor McDevitt explained the procedure for using redevelopment bonds in this project.

Barry Olen, merchant and property owner on Wall Street, spoke in support of the redevelopment plan for the Haywood/Wall Street Redevelopment Project. He said the Wall Street and Battery Park Merchants Association pledge their cooperation and support for the plan. He requested that City Council instruct the City staff to continue their efforts to alleviate any problems during the construction phase of the project. He said that problems he would foresee in the project would be parking during construction, renovation procedures, and construction during the daytime business hours.

Upon inquiry of Mr. Olen, Mayor McDevitt said no final decision had been made relative to the opening or closing of Wall Street. He said, upon inquiry of Mr. Olin, that the area would be a mixed use of residential and retail area.

On a roll call vote of 6-0, Ordinance No. 1537 passed on third and final reading.

Complete text of Ordinance No. 1537 will be found in Ordinance Book No. 10 at page 307.

ORDINANCE NO. 1538 - AN ORDINANCE AMENDING ORDINANCE NO. 322 KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE" AS AMENDED - PROPERTY LOCATED ON OLD CHUNNS COVE ROAD (LARRY BUCKNER PETITIONER)

7. Consideration was given to the second reading of Ordinance No. 1538, an ordinance amending Ordinance No. 322 known as "an ordinance providing for the zoning of the City of Asheville" as amended - property located on Old Chunns Cove Road (Larry Buckner petitioner).

Mayor McDevitt said the Asheville Planning and Zoning Commission at a meeting held August 7, 1985, considered the petition of Mr. Larry Buckner, Buckner Associates, that Ward 8, Sheet 25, Lot 26, be rezoned from R-1 Residential District to R-2 Residential District. The property is located on Old Chunns Cove Road. After review and discussion, the Commission voted to recommend to City Council that Ward 8, Sheet 25, Lot 26, be rezoned from R-1 Residential District to R-2 Residential District. This ordinance passed on first reading on October 1, 1985.

Mayor McDevitt said this ordinance was previously read on first reading and would not be re-read in its entirety unless there was a specific request to do so.

On a roll call vote of 6-0, Ordinance No. 1538 passed on second reading.

ORDINANCE NO. 1539 - AN ORDINANCE CREATING THE ASHEVILLE FAIR HOUSING COMMISSION

8. Consideration was given to the second reading of Ordinance No. 1539, an ordinance creating the Asheville Fair Housing Commission.

Mayor McDevitt said the City Council of the City of Asheville finds it in the public interest to promote fair housing practices in the City. The City Council desires to prevent discriminatory practices against any person in a real estate transaction. The U. S. Department of Housing and Urban Development has for many years encouraged and supported anti-discrimination initiatives through grant programs to the City designed to ensure equal opportunity for all citizens. The City Council of the City of Asheville does desire to create a Commission to be known as the Asheville Fair Housing Commission as authorized in Chapter 776, Sections 1, 2 and 3 of the General Statutes of North Carolina. This ordinance passed on first reading on October 1, 1985.

Councilman Frank moved to amend Ordinance No. 1539, Section 6, to read as follows: "The Chairman shall be appointed by City Council from among the members of the Commission and shall serve for a term of one (1) year. No member shall serve more than two (2) successive, one (1) year term as Chairman". This motion was seconded by Councilman Price, and carried unanimously.

ORDINANCE NO. 1542 - AN ORDINANCE AMENDING SECTION 19A-11 OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE (GRIEVANCE PROCEDURE)

5. Consideration was given to an ordinance amending Section 19A-11 of the Code of Ordinances of the City of Asheville (Grievance Procedure).

Mayor McDevitt said a recent Supreme Court decision, Cleveland Board of Education vs. Loudermill, requires the City to institute pre-termination hearing procedures for any employees being terminated from City employment by the City. These procedures will also be used for employees being demoted or suspended without pay for more than five (5) days. In addition, a number of minor procedural changes are being made in City's grievance process including: intermediate supervisors in the process; specifying hand delivery or delivery by certified mail of all notices; permitting employees to go to the Civil Service Board if the grievance process isn't completed in 30 days; and removing a section making reinstatement actions retroactive to date a grievance is filed.

Mayor McDevitt said members of Council were furnished copies of the ordinance and it would not be read in its entirety.

Upon inquiry of Councilman Price, Sam Graves, Director of Management Services, said the amendments to the grievance procedure would strengthen procedures used by supervisor for personnel actions. He said because of incorrect actions by supervisors, many have been overturned by the Civil Service Board and the court system. He said the proposed amendments have not been discussed with the employees; however, he felt the amendments would make the system more just and fair.

Upon inquiry of David Anders, with the Asheville Firefighters Association, Mr. Graves said reinstatement actions would be retroactive back to the date the actions occurred rather than the date grievance is filed on such actions.

Councilman Frank moved for the adoption of Ordinance No. 1542. This motion was seconded by Councilman Myers.

On a roll call vote of 6-0, Ordinance No. 1542 passed on first reading.

ORDINANCE NO. 1537 - AN ORDINANCE PROHIBITING SMOKING ON CITY PUBLIC TRANSPORTATION

6. Consideration was given to the third reading of Ordinance No. 1537, an ordinance prohibiting smoking on City public transportation.

Mayor McDevitt said this ordinance will prohibit smoking on Asheville Transit Authority buses for health and cleanliness reasons. This ordinance passed on first reading on September 24, 1985, and on second reading on October 1, 1985.

Mayor McDevitt said this ordinance was previously read on first and second reading and would not be re-read in its entirety unless there was a specific request to do so.

APPROVAL OF THE CONSENT AGENDA

11. Consideration was given to a motion approving the consent agenda.

Mayor McDevitt said the following items are of a routine nature and they have been previously reviewed by the members of the City Council. Therefore, by unanimous vote to approve these items, the City Council may, pursuant to the procedures established in Ordinance No. 1008, adopt all of the items with one motion without the full reading and/or separate motion adopting each individual item. Upon the request of a citizen, a member of the City Council, and/or a member of the City staff, any single item scheduled for approval on the consent agenda may be considered separately.

Resolution No. 85-184

A. Resolution authorizing the City Manager to enter into a lease agreement with the Buncombe County Child Development Program to be conducted at the William C. Reid Memorial Recreation Center.

HIGHLIGHTS: The City owns property known as William C. Reid Memorial Recreation Center. The Buncombe County Child Development Program is currently using the annex building to this property as well as the kitchen and cafeteria in the main Reid Recreation Center. This resolution will authorize the City Manager to enter into a lease agreement with Buncombe County for a five (5) year period with an option to renew the lease for an additional five (5) years.

FISCAL IMPACT: Revenues - $1,200.00 annually.

Resolution Book No. 15 at page 330.

B. Motion to schedule a public hearing for rezoning property located at Georgia Avenue and Craven Street for October 29, 1985.

HIGHLIGHTS: The Asheville Planning and Zoning Commission at a meeting held September 11, 1985, considered the petition of Mr. Lawrence Lynch that Ward 6, Sheet 1, Lot 91, be rezoned from R-3 Residential District to CS Commercial Service District. The property is located at Georgia Avenue and Craven Street. After review and discussion, the Commission voted to recommend to City Council that a portion of Lot 91, Sheet 1, Ward 6, be rezoned from R-3 Residential District to CS Commercial Service District.

FISCAL IMPACT: None

C. Motion to schedule a public hearing relative to a site plan for Pack Plaza Project for October 29, 1985.

HIGHLIGHTS: On November 27, 1984 City Council reviewed and approved the site plan of the South Pack Plaza Project in concept. As all of the project is now owned by Pack Plaza Associate

Ralph Bishop spoke in opposition to the ordinance stating that this was an invasion of the Privacy Act.

On a roll call vote of 6-0, Ordinance No. 1539 passed on second reading as amended.

RESOLUTION NO. 85-183 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AGREEMENTS WITH DESIGNATED AGENCIES TO CARRY OUT THE OPERATION OF THE CITY'S COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM DURING 1985-86

9. Consideration was given to a resolution authorizing the Mayor to execute agreements with designated agencies to carry out the operation of the City's Community Development Block Grant Program during 1985-86.

Mayor McDevitt said this resolution will authorize the Mayor to execute contracts with City Departments, Housing Authority, Chamber of Commerce, and Community Relations Council to carry out the 1985-86 CDBG program as approved by City Council on May 14, 1985 and outlined in the Statement of Objectives and Project Use of Funds. $1,382,000.00 funds are already budgeted in CDBG Fund.

Mayor McDevitt said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Price, seconded by Councilman Frank, Resolution No. 85-183 was unanimously adopted.

Complete text of Resolution No. 85-183 will be found in Resolution Book No. 15 at page 329.

BIDS - ALUMINUM STRUCTURE PLATE - PIPE ARCH - PUBLIC WORKS DEPARTMENT

10. Consideration was given to a motion relative to bids received for aluminum structure plate - pipe arch.

Mayor McDevitt said sealed bids were invited to furnish one (1) lot of aluminum structure plate, .125" thick to fabricate 10' 9" span x 6' 10" rise pipe arches into two (2) 60' runs and two (2) 30' runs for the Public Works Department, Street Division. Request for bids included a statement that all materials and labor necessary to fabricate the pipe arches at the job site be furnished by the vendor. Nine (9) invitations were mailed to prospective bidders; however, only one bid was received. This bid was from Silverman Company in Asheville in the amount of $22,572.00. There are sufficient funds in the Street Division Budget to cover this cost.

The Acting City Manager noted that the materials would be used to increase the size of the culvert at Riverside Drive and Lyman Street.

Councilman Bissette moved to award the bid to Silverman Company in the amount of $22,572.00. This motion was seconded by Councilman Frank and carried unanimously.

Mr. Tom Marinkovich, President of Daniels and Associates, Inc., read the following presentation to the City Council:

ASHEVILLE CABLEVISION

Presentation to the City Council
By
Tom Marinkovich, President
Daniels & Associates Inc.

My name is Tom Marinkovich. I'm president and chief operating officer for Daniels & Associates of Denver, Colorado, which has been the managing partner of Asheville Cablevision since March, 1983. I'll be speaking to you this evening on behalf of Asheville Cablevision and its over 2500 partner/owners.

First, I want to thank the City Council for giving us this opportunity to respond to those items outlined by the commission.

We'll try to be brief today. But we do hope to convince you we are fully committed to outstanding service when it comes to those items you have called to our attention, including service interruptions, signal quality, service response capabilities and communications with the community.

Today, we'll outline, for each of those issues, what causes the problems, what steps we've taken to address them and our specific plans for the future to ensure that we provide first class cable television service to the citizens of Asheville.

We would also like to use this opportunity to recommend ways we might be able to communicate more closely with the Asheville City Government.

You know when we acquired the system in March of 1983, it had 16,000 subscribers. We've built that up to 19,500 customers. It had 30 employees. We now have 45. We promised $6 million in capital improvements over six years. We will have spent $3

Limited Partnership or the Asheville Housing Authority, it is in order for the City Council to schedule a public hearing and give final approval to the site plan.

FISCAL IMPACT: Total Project Cost: $18,200,000

Developer Debt/Equity	$13,000,000
UDAG Grant	3,200,000
Local Contributions	2,000,000

Anticipated Tax Increase:

Property	$56,970
Sales	23,400
Personal	21,000
Total	$ 101,370/yr.

Upon motion of Councilman Bissette, seconded by Councilman Price, the consent agenda was unanimously approved.

RESOLUTION NO. 85-185 - RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF ASHEVILLE TO MAKE APPLICATION FOR A COMPUTER ENRICHMENT PROGRAM

12. Consideration was given to a resolution authorizing the Mayor of the City of Asheville to make application for a computer enrichment program.

Mayor McDevitt said $2,407.00 in state funds is available to provide enrichment programs in three neighborhoods with local match in the amount of $2,229.00 to be provided by City through in-kind staff services and departmental supplies in place at the Reid Memorial, Montford, and Stephesn Lee Center service areas. He said this program would be aimed at deterring juvenile delinquency using computers as recreation. This resolution will authorize the Mayor to apply for said grant.

Mayor McDevitt read the resolution.

Upon motion of Councilman Price, seconded by Councilman Frank, Resolution No. 85-185 was unanimously adopted.

Complete text of Resolution No. 85-185 will be found in Resolution Book No. 15 at page 331.

CLAIMS - MICHAEL GUZMAN (STREETS) - SIMON DEMOS (SANITATION)

13. The Acting City Manager presented claims received from Michael Guzman and Simon Demos.

Mayor McDevitt referred the claims to the Corporation Counsel for investigation and recommendation.

DISCUSSION OF CITY COUNCIL CABLE TELEVISION COMMISSION REPORT

13. John Jerose, General Manager of Asheville Cablevision, introduced Mr. Tom Marinkovich, President of Daniels and Associates of Denver, Colorado, managing partner of Asheville Cablevision.

rebuild those areas of the plant that needed replacement.

We'll be spending additional sums for that purpose in coming months. It's obvious to me that our company needs to improve the way in which it communicates to the Council and the people of Asheville the extent of our commitment to providing cable service that is second to none. I pledge to you we will do a much better job of doing that in the future.

As one of the largest multiple cable systems operators in the nation, we have a formal Mission Statement for our business. To help you appreciate the extent of our commitment, I'd like to share it with you. It reads:

> The mission of all Daniels Cablevision systems is to provide a quality, well maintained communications/entertainment/information service through trained, highly mot vated employees, while developing an optimum return to investors and maintaining a position of integrity and responsibility within the community.

We recognize that communications means receiving input, whether its from you, our customers, or the public. We recently commissioned an opinion survey and focus group research of our customers here in Asheville, which can be projected to our 19,000 customers with high reliability.

It was illuminating in that it provided evidence that we have made substantial strides in improving our customer service in recent months, and yet there's still room for improvement.

With that background let me respond to each of the items the commission has brought to our attention.

The first is service interruptions or outage problems.

There are two categories of service outages -- uncontrollable or controllable. Uncontrollable events are obvious, such as

million in three years.

We'll do whatever's necessary -- within the bounds of good business judgement and our First Amendment rights as an electronic publisher -- to demonstrate to you, to our customers and to the general public that we are a good business that's responsive to our customers, actively involved in the community and an economic asset to Asheville.

We don't want to just perform minimally. Our company is noted throughout the cable television industry as one of the finest operators in the business. We pride ourselves on being the best. We're dedicated to buying the best equipment, hiring the best people, acquiring the best programming, maintaining the best maintenance schedule, conducting the best training, employing the best billing systems and giving our best to the community.

Our company's founder, Bill Daniels, has little patience for second-best. We know that it makes nothing but good business sense to utilize the finest business practices possible. After all, we are in business to make a profit. That means attracting and maintaining subscribers, being responsive to customers and being involved in the community as a civic-minded corporate citizen.

In the case of Asheville Cablevision, we've been here only two and a half years, but we've invested millions of dollars in rebuilding, upgrading and enhancing the existing cable plant and equipment. It's important to remember that Asheville has had cable television since 1968, and it's only natural that some of the plant needs replacement. We set out immediately after acquiring the system with a persistant pattern and plan to

using the best-available technology and plant maintenance methods to minimize interruptions.

With respect to controllable circumstances, we have made excellent progress. And we are not finished.

We recognize that overall plant reliability is the key to reducing our exposure to outages. Today, we use better construction techniques and materials than were available when the system was constructed in the late 1960's and early 1970's.

Building reliability into the system is the direct responsibility of our Technical Department, Trent Morrison has been promoted to Field Engineer and Dean McCracken and Dave Drum are each taking half of the system to provide for system sweeping, balancing and trunk and feeder performance.

Let me give you a couple of quick examples of our progress in reducing controllable outages.

We have found that customer installed converters or channel selectors, have presented the greatest problem. We allowed customers to install their own converters in order to save the customer money, but many were not installed correctly. So we have improved the Customer Education efforts of our Sales Staff to help ensure that our customers install and operate the converter boxes correctly.

Also, a follow up is made on every single installation and service call with a telephone call by our Customer Service Representatives to make sure the work has been performed properly and timely.

Our Technical Staff is now responding within 24 hours or less if a customer-installed converter doesn't operate properly.

lightning or storm damage to our facilities, utility poles being knocked down by vehicles, severe weather conditions or loss of electrical power to our equipment. The controllable circumstances involve either equipment failure that could have been anticipated or human error.

Because of the nature of Cable technology, our system can experience a single interruption or outages to entire areas affecting hundreds of customers simultaneously, either from uncontrollable or controllable circumstances.

First let me review the actions we have taken to try to reduce interruptions from uncontrollable circumstances. To reduce lightning damage and damage from power transients and surges, we instituted a program over twelve months ago to improve the grounding for poles and line equipment. We have gone to a non comingling grounding system which far exceeds code requirements. It is expensive but we think it is worth it to achieve increased reliability.

Secondly, we continue to install back-up power supplies throughout the system, to provide continuous service during short term power interruptions.

Another uncontrollable circumstance is physical damage to the coaxial cable itself. We have been and will continue to replace old bare aluminum sheath cables with coaxial cable that's been coated with a polyvynal jacket to prevent internal damage, and interrupted service to our customers.

We certainly will continue to experience outages from lightning, storms, downed telephone poles or extreme cold or hot weather. Every cable system in the country does. But we are

From the beginning we planned to replace major portions of the system over the first five or six years. We have been replacing old cable regularly including a major new trunk line in South Asheville. Our work to date has made noted improvement in reliability since the acquisition.

I would summarize the service interruption issue by saying that we have made good progress and we will attack any problem that comes up with vigor and will continue to take steps to increase the reliability of the system.

In the area of signal quality let me briefly explain what can cause problems.

Usually, its associated with extreme temperature changes causing equipment failure. An example, is when there's severe hot weather, electronic components in our equipment degrade, adversely affecting the quality of the television picture.

For the past 18 months, our Technical Department has stepped up its monitoring of the system to look for signs of equipment failure and to make corrections, many times before it adversely affects the picture quality.

We have been installing and will continue to install improved electronic equipment designed to compensate for temperature fluctuations.

To the extent there is a picture quality problem, our service department is responding to our customers need within 24 hours.

Today the signal quality throughout the system is generally good. Where we find poor reception we will fix it. Interestingly, in the survey we just had conducted, 81% of our customers

Another example. We have had difficulties with converters scrambling and turning on and off, we have found that the line from the pole to the home and the associated connections were the main source of these problems.

We have and will continue to respond to these problems as a priority.

One final example. To ensure plant reliability we have made significant capital improvements to the system. To date, we've spent more than $3.0 million on this system. You can see that this is not a business for the faint of heart.

Incidently, during the hearings you held, 41 people spoke to the issue of service interruptions. We have been able to reach 31 of these people and received assurances that their technical problems have been resolved. If anyone currently has a problem we would certainly like to hear about it and we will fix it.

Our plans for the future are well-defined, our staff is geared to perform. I'm very confident we will continue to make significant progress in the area of service interruptions as part of our formal 1986 Business Plan.

Briefly, here are some illustrations.

We plan to spend close to another $1,000,000 in 1986 for new cable and equipment. This will include replacing old cable plant together with adding more stand-by power supplies throughout the system, which will continue to improve reliability.

We acquired this system two and one half years ago. Some of the system was new, but some of it was old and getting older by the day.

reported problem.

Management personnel are also on duty weekends, to help any customers with unusual problems.

Our 10 technicians are receiving ongoing training in engineering programs and ways to better communicate with our customers.

We have also taken steps within our business office to improve service response.

We have promoted Dot Cordell to Customer Service Supervisor She has the responsibility to work with customers to resolve any dissatisfaction with our service.

She will also coordinate with our Construction Manager present and future projects and completion date information, so that it can be passed on to customers in response to their inquiries.

All of our Customer Service Representatives have completed training programs to increase their knowledge of billing problems and programming, and to refine their interpersonal skills so they can quickly and effectively respond to our customer over the telephone.

I am pleased at the improvement shown by our employees with both the consideration and patience shown to our customers, and, most importantly, their professionalism in handling customer needs. We will not tolerate discourtesy by any employee towards a customer, no matter what the problem and no matter who is right.

Prior to the channel changes on March 1, 1985 there were less than 75 complaint letters in the City's file since the system opened in 1968.

expressed their satisfaction with the picture and sound quality of cable television.

Nonetheless, our Business Plan has established picture quality as another area of high priority for the Technical Department. And, this means quality reception, whether that's the visual picture or the sound on the television set.

Next is the issue of service response capabilities.

This is one area that has required a great deal of attention and we're making headway.

We have taken steps during the past two years to manage, organize, train and motivate our employees. Additionally, we've devoted considerable financial resources to acquire a much better telephone system, better billing systems and internal communications systems to improve service to our customers. In the last six months we have stepped up our commitment in all of these areas. We are listening and we are hearing what has been said and we will continue to monitor our performance in the future.

We've added two service technicians above normal staffing levels of other cable systems. We now answer customer calls Monday through Friday 9AM - 9PM, Saturdays 9AM - 2PM, with additional personnel being trained for Sunday. This has significantly reduced our use of an answering service which cannot communicate affectively to our customers in the manner of our trained personnel.

We are now fixing cable problems seven days a week with a goal to provide service to a customer in less than 24 hours of a

with government and the public.

Our company has learned a great deal from this experience and we will not make the same mistakes again. We are not happy if we get even one complaint so we plan to do more. Our plan for the next year is again specific.

Additional installation training during 1986 will upgrade the skills of all installers to include meter reading, trouble shooting, splicing, pole grounding, pole transfers, and customer service. Special emphasis will be placed on customer information and education during installations and a program for incentives to motivate 100% performance.

Installers completing this course work will be tested before consideration is given to their promotion.

All technical personnel will also attend customer service training.

And, additional improvements will be made within our business office to make it easier and faster to deal with us by telephone, in person or by correspondence. We will be making further enhancements to our telephone system, sending our Customer Service Representatives through advanced training, refining our billing procedures and computerized information data base and using incentive, motivational, and team-building management.

In the area of communications with the community, we have recently made excellent progress. Admittedly, we had a long way to go and we still have much room for improvement.

The first step to rectify the communications gap was to announce our seven-point Customer Care Plan in August. The second step was to communicate directly with our customers

This is not to say that those were the only problems that we had, but it does demonstrate that we handled customer problems quite well.

To place the issue of customer service in proper perspective, we must look at the period from March 1, through May 31st.

We had no idea that the customer response to upgrade their service would be as great as it was. During the notification period in January and Febuary it did not appear that many customers would upgrade their service. However when we activated the channel changes and premium service price reductions, on March 1, the onslaught began and frankly we were not adequately prepared to deal with over 5000 customers who would upgrade their service in the next 90 days.

I do not offer this as an excuse but an explanation. Yes, customers were angry over the channel changes, frustrated because they could not get through on the telephone to order the new service, and in some cases they came in to pick up their converter and returned nome only to find that it wouldn't work.

Let me say at this point that I do apologize to the members of the Council, the City staff and our customers for the actions caused by any inadequacies in communication on our part.

I have analyzed the period since June 1st and find that service calls have decreased to levels existing prior to the change. We have turned this problem into an opportunity to address the care of our customer and to improve communications

we've made that are newsworthy to the community.

Most of all, we want to do a better job of communicating with you.

We'd be happy to do whatever is necessary to build a cooperative bond with you, including meeting on a regular basis to give you a better understanding of our problems, progress and commitment to excellence. We also want your input and insight.

In summary, just let me say we are completely committed to providing outstanding cable television service here in Asheville. It's in our best interests to do that. We respect your interest in seeing that we do a good job and calling us to task if we slip up. Let me assure you our objectives are the same as yours.

The commissions report has also raised a number of legal issues. I have asked one of our attorneys, Wade Hargrove, to be here this evening and to address all of those issues. Thank you for your patience in listening.

Wade Hargrove, Attorney for Asheville Cablevision, read the statement which follows on the next page.

through our own channel 9 "call-in programs." These programs, an hour long, coupled with brochures mailed to all subscribers, have been successful in communicating to our customers how we are dealing with their concerns, telling them that we cared about them and asking them to assist us.

We hold regular Employee Meetings to stress good communications with our customers and the general public.

We have been using cable television, radio, and the newspaper as vehicles to focus public attention on the positive things we are doing to provide excellent cable television. Our efforts are working.

Not only are we communicating to our customers, but we are actively seeking their opinions and perspectives about our company and our services. Again, we are listening and responding to what they are telling us.

We will continue our television, radio and newspaper communications to the public. We will sponsor two major community events in 1986 to enhance our community participation. Our employees will be encouraged to take part in other community activities .

We will continue to cablecast customer "call-in programs" to maintain an open, public dialogue with them. We will train key Cablevision personnel in speechmaking techniques and arrange for them to visit several civic organizations to open lines of communications.

Our plan also calls for an assertive program of working with journalists and broadcasters to publicize the improvements

The federal government, through the FCC, started regulating cable TV in 1966. A few of the states have chosen to regulate it. North Carolina hasn't. And virtually every city jumped into the rate regulation business early on because the local cable company looked to a lot of folks a little like the telephone company.

But you should make no mistake about it. A cable television company is not to be confused with a telephone company, an electric company, or a water company. A cable TV company is a system of mass communications--just like the local newspaper--and the right to own and operate a cable television system is a right guaranteed and protected by the First Amendment to the United States Constitution. There have been a series of federal court cases in recent months which have consistently so held.

I'll go into more detail about that later, but it's important to note at the outset that the legal issues raised by the Cable Study Commission in its report must be viewed within that constitutional framework.

Although I respectfully disagree with the legal conclusions in the Cable Study Commission's report, the report reflects an enormous amount of conscientious work and raises some very important issues. As you can see, the cable company is not taking the report lightly and is

STATEMENT
OF
WADE H. HARGROVE
BEFORE THE ASHEVILLE CITY COUNCIL

October 8, 1985

Thank you.

My name is Wade Hargrove, and I'm a member of the Raleigh law firm of Tharrington, Smith and Hargrove. I appreciate the opportunity to discuss with you the legal issues raised in the Cable Study Commission's report.

I've devoted the better part of the last twenty years representing cable television systems, radio and television stations, newspapers and telephone companies.

I've always been amazed at the strong emotional feelings people seem to have about television. You, as members of the Council, have seen that here in Asheville. I guess it's understandable because everybody who watches television considers himself, and perhaps rightly so, to be an expert on the subject. For that reason, however, cable companies--like public officials--find it impossible to please all of their constituents all of the time. Television shouldn't be so important, but it is. Because of all that, it's not surprising that government, at every level, got itself involved in the business of regulating cable TV from day one.

clearly legal; and there is no basis for revocation of the franchise.

Let me go through those issues one at a time.

I.

The Term Of The Franchise

The franchise expressly states that it is for a term that does not end until the year 2002. The franchise was granted by the City Council in 1967 under the authority existing then and now in the City Charter. Indeed, a previous attempt by the City in October, 1965, to grant a cable television franchise was invalidated by the North Carolina Supreme Court in January, 1967, because the City had failed to follow the procedures for issuing the franchise required by the Charter. The case was Shaw v. Asheville, 269 N.C. 90 (1967), and I'm sure you're familiar with it. The Supreme Court in that case recognized that the City of Asheville was empowered by its 1923 Charter to grant cable television franchises and the City--unlike most cities--did not have to depend on general state law to issue a cable franchise. The Supreme Court at p. 99 said that the City had authority to issue a cable franchise

> "Within the implied authority conferred upon Asheville by § 212 and 213 of the City Code, i.e., the City Charter. . . ."

committed to responding to it as completely and honestly as it knows how.

The report appears to raise the following legal issues:

(1) Whether the term of the franchise is 35 years or 20 years;

(2) Whether the city can legally issue an "exclusive" franchise and, if not, whether to the extent the existing franchise purports to be exclusive, it invalidates the franchise in its entirety;

(3) Whether the company violated the franchise by retiering its programming last spring;

(4) Whether the reported reception and service problems constitute a breach of the franchise; and

(5) In light of all of that, whether the city could or should revoke the franchise.

My thoughts, briefly stated, are as follows: Asheville Cablevision has a valid franchise; it is valid until the year 2002; it is not and cannot be exclusive and the presence of the language in it purporting to make it exclusive does not invalidate the other provisions of the franchise; the retiering of services last March was

intent to do so.[1/] As noted earlier, the legislature did not state that the 1967 act relating to the length of cable franchises was meant to supercede or repeal the 1923 act authorizing Asheville to issue a 35-year franchise. To quote just on of the most recent pronouncements of the North Carolina Supreme Court on this issue:

> "It is well established in North Carolina that a legislative act of local application is repealed only when a subsequent act of general application clearly expresses such an intent."
>
> City of Durham v. Manson, 285 N.C. 741, At 744 (1974).

1/ "General statutes ordinarily do not repeal the provisions of charters granted to municipal corporations or special statutes enacted for their benefit, even though conflicting with the general statutes, unless such repeal is in express language or by necessary implication." McQuillen, Municipal Corporations, § 9.31 (3rd ed.)

"The enactment of a general law broad enough in its scope and application to cover the field of operation of a special or local statute will generally not repeal a statute which limits its operation to a particular phase of the subject covered by the general law, or to a particular locality within the jurisdictional scope of the general statute. An implied repeal of prior statutes will be restricted to statutes of the same general nature, since the legislature is presumed to have known of the existence of prior special or particular legislation, and to have comtemplated only a general treatment of the subject matter by the general enactment. Where the later general statute does not present an irreconcilable conflict the prior special statute will be construed as remaining in effect as a qualification or exception to the general law." Suthgrland, Statutory Construction, § 23.15 (4th ed.)

The City Charter, with the 35-year franchise term provision, was enacted by the General Assembly as Chapter 16 of the Private Laws of 1923. The original grant of the franchise took place when the current company's predecessor, Thoms Broadcasting, accepted the franchise on August 17, 1967. Consistent with the requirements of the City Charter, a referendum on the franchise was held a few days earlier, on July 28, 1967, in which the people of Asheville voted to approve the grant for a term of 35 years.

The Cable Study Commission's report questions whether these actions in July and August, 1967, were invalidated by what took place in the state legislature earlier that summer. Chapter 1122 of the 1967 Session Laws, which became effective on July 4, 1967, amended Section 160-2 of the General Statutes (now G.S. 160A-319) to authorize cities to issue cable television franchises and to limit those franchises to 20-year terms. The 1967 legislative act, however, did not express an intent to supersede or override the 1923 act of the General Assembly adopting the Asheville City Charter.

The law of this state--and in other states as well--is quite clear that legislation which is designed for all cities does not repeal existing legislation for a specific city unless the General Assembly specifically expresses an

history to show an intent to supercede the earlier legislative act authorizing Asheville to issue a 35-year franchise.

Combined with the general rule of statutory construction that repeal by implication is not favored, it is quite clear that the section of the City of Asheville Charter providing for a 35-year term for franchises was not repealed in 1967.

In addition to that, however, the City of Asheville itself has since acknowledged that it had authority to issue the cable franchise for a 35-year term. As you know, in March, 1983, when the City approved the transfer of the franchise to the present company, the City Council reaffirmed in Section 4 of the Ordinance transferring the franchise, that the franchise was good until "August 2002."

Both the City and Asheville Cablevision have long relied on the franchise as a 35-year term. The current owner of the cable system and its predecessors have invested money, bought equipment and committed millions of dollars that they plainly would not have committed if the franchise were to expire in 1987. That is, of course, the purpose of a franchise in the first place. It enables a company to make long-term plans, to accept early losses in anticipation of later gains. It permits a business to

This, of course, is an eminently sensible rule of law when you consider the history of how local governments in North Carolina (and most states for that matter) got their power. Until the 1969 session of the legislature, most of the power of city government came from local acts of the legislature--like Asheville's Charter. The majority of laws that were enacted by the General Assembly each year until 1969 were acts granting specific powers to specific cities and counties. In 1969, however, the legislature enacted the first significant "home rule" legislation for cities. For the first time, all cities in the state were given wide-ranging powers so that individual local governments would not have to keep coming back to the legislature for changes in their charters. This legislation is now codified in Chapter 160A of the General Statutes.

In recognition of this history of a piecemeal, local-act-by-local-act way of granting powers to cities, the courts developed the statutory rule of construction to which I referred earlier. That is, a subsequent general law written for <u>all</u> cities must not be construed to override an earlier law written specifically for a particular city unless the General Assembly has made clear that is what it intended to do.

And as I mentioned, there is nothing in the 1967 act on cable television franchises or in its legislative

necessary to its grant of such permission did not exist."

City of Summerville v. Georgia Power Company, 205 GA 843, 55 S.E.2d 540 (1949).

Thus, with all due respect to the Council, after so many years of reliance and having received the benefits of the franchise, I believe the City would be estopped by any court from contesting the validity of the 35-year term.

Moreover, there is no basis under state law for concluding that the franchise expires until 2002. If you should decide otherwise, Asheville Cablevision would be entitled to the full protection of the renewal provisions of the 1984 federal cable act, [2/] including judicial review of the City's failure to renew the franchise. That law sets precise and narrow grounds for termination of franchises, and there is clearly not a sufficient basis here for revoking the franchise under the federal act.

II.

Exclusivity Provisions Of The Franchise

I agree with the Study Commission's concern over the provision relating to the exclusivity of the franchise. I do not believe that the exclusivity provision would be

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2/ The "Cable Communications Policy Act of 1984." S. 66, 98th Cong. 2nd Sess. (1984).

continue to invest in improving its operation, knowing that it has a number of years over which to amortize its investment.

Likewise, the City itself has relied on the franchise by accepting thousands of dollars in franchise taxes, having a channel dedicated for use by the Board of Education and by having free drop lines for schools, fire stations, police stations and city hall. (See Sections 8 and 9 of Ordinance.) There is a general rule of law that if the parties to a contract act as if a contract has existed for a long period of time and have spent money on that assumption, there comes a point when the law says it is too late to claim that there was some deficiency in the procedure for making the contract. For example, when the City of Summerville, Georgia, after 20 years, attempted to argue that an electric power franchise it had earlier issued was improperly granted and, was therefore invalid, that state's Supreme Court held the city raised the argument too late. The Court said:

> "On the faith that permission had been legally given, great expenditures were made in the construction and maintenance of the distribution system; and now the city, after acquiescing in that use and after receiving the benefits therefrom, under the principles of equitable estoppel will not be heard to say that the conditions

That section of the franchise is, of course, consistent with general rules of law for construing contracts and statutes. As stated in McQuillen's treatise on municipal law:

> "The fact that a franchise is exclusive, even where the exclusive feature is wholly unauthorized, does not render it invalid in toto but merely insofar as it is exclusive, provided the grant is severable."
>
> McQuillen, Municipal *Corporations*, § 34.27.

The Asheville franchise is severable by its own express terms so any invalidation of the exclusivity provision would plainly not invalidate the franchise itself.

III.

Retiering Of Program Services

The Study Commission further questions whether the company's retiering of programs earlier this year was legal. There is no question but that the retiering was legal under the express provisions of Section 625(d) of the federal cable act of 1984 and under the protection afforded to cable systems by the First Amendment to the United States Constitution. Neither federal, state nor local governments can dictate specific programs to be carried on cable systems--any more than they can dictate

sustained under either the North Carolina State Constitution's prohibition against monopolies and special emoluments or under the First Amendment to the United States Constitution. The North Carolina Supreme Court has stricken "exclusive" franchises issued for the operation of racetracks and water work systems. More importantly, a Ninth Circuit Federal Court of Appeals decision earlier this year held that the City of Los Angeles could not, under the First Amendment, issue an exclusive cable franchise unless the city could prove that the city's rights of way could not accommodate more than one cable system. Preferred Communications, Inc. v. City of Los Angeles, Slip Opinion, Case No. 84-5541 (9th Cir. Mar. 1, 1985).

The fact of the matter is, however, that Cablevision of Asheville does not request that it be issued an exclusive franchise. The fact that the exclusivity clause might be invalid does not affect any other terms of the franchise. The franchise itself expressly states that all its sections are severable. Section 34 of the 1967 franchise Ordinance states:

> "If any section, subsection, sentence, clause, phrase or portion of this ordinance is held invalid or unconstitutional such portion will be deemed a separate, distinct and independent provision and such holding shall not effect the validity of the remaining portions thereof."

difficulties. After all, it's extremely difficult to operate a system at the same time you are rebuilding it.

Under Section 32 of the franchise, the Council would have no grounds for revoking the franchise unless it could establish

(1) that the violations were not attributable to "causes beyond the reasonable control" of the company, and

(2) as to violations that were "beyond the reasonable control of the company," that the Council gave 30 days written notice of the specific violations alleged to have occurred, and

(3) that the company did not "commence," and "within a reasonable time complete the correction" of the alleged violation.

In addition, Section 626(d) of the federal cable act requires a similar notice. Of course, even if the franchise and the cable act did not, by their own terms, require such notice, fundamental requirements of due process and fair play would. With all due respect, the generalized concerns raised in the Cable Study Commission's Report concerning service difficulties do not rise to the level of specificity and particularity that are required for an adequate "notice"of violation. If you

specific articles to be published in the local newspaper or programs carried on the local TV station or movies run in local movie theatres. If there should be any serious question about that, a telephone call to the FCC would quickly confirm this to be an accurate statement of the law.

IV.

Reception And Customer Service Concerns

Finally, the Study Commission raises the question whether Cablevision of Asheville is in breach of the franchise as a result of reported reception and service difficulties. I believe it's apparent from the statement you just heard from the cable company's President that the company is committed to responding in a positive, immediate and effective way to the concerns that have been raised in this regard. Whatever difficulties and misunderstandings that might have existed in the past are being addressed by the company. The technology of the cable business is complicated. It's not simple, in the least, and it poses an enormous challenge to any company. Given the company's efforts since it acquired the system to upgrade the system's equipment, it is not surprising that there would be reports by subscribers of technical

Finally, and most importantly, a revocation would violate the First Amendment rights of the cable company and of its subscribers. As I mentioned earlier, the courts, in case after case, have struck down on First Amendment grounds interference by both federal and local governments with the First Amendment rights of cable television systems. Back in 1977, for example, when the federal government imposed a series of burdensome regulations on the cable industry, a federal court immediately invalidated them and commented:

> "There is nothing. . . to suggest a constitutional distinction between cable television and newspapers. . ."
>
> Home Box Office, Inc. v. FCC, 567 F.2d 9 (D.C. Cir. 1977) at 46.

In another case involving a cable television system in Colorado, a federal judge put the local cable TV company on the same legal footing as the local newspaper. He said he could not:

> "Distinguish the dissemination of news and information by cable TV from that by newspapers. Surely, an attempt by a city to use control of its streets and ways as a bludgeon to deny delivery of a newspaper. . . would be rapidly struck down on First Amendment grounds. The more so when it became clear that the denial was but a first step in a plan to insure the presence

will provide the cable company with a list of the specific matters relating to service which you feel to constitute violations of the franchise, I am confident that the company will do everything within its power to correct these problems as quickly as possible.

With all due respect, it is fair to say that if you proceed to try to revoke the company's franchise and its right to do business in this community, the company will respond just as you or anyone else would under the circumstances--it will use every appropriate resource at its disposal to protect its constitutional rights.

Aside from general application of state law to the specific terms of the franchise, any attempt at revocation would--as I mentioned earlier--be subject to the provisions of Section 626 of the federal cable act of 1984. The principal purpose of that act was to provide cable companies with a reasonable expectancy for continuation of their franchises. I believe, again with all due respect to the Cable Study Commission, that no evidence has been presented that would be sufficient to sustain a revocation under federal law.

Moreover, any attempt to arbitrarily revoke the company's right to operate a cable system would constitute a restraint of trade under the Sherman Act and under North Carolina's state antitrust laws.

regulate cable programing. But the courts have rejected that.

A federal Court of Appeals in a case involving a cable company in Los Angeles earlier this year held that the presence of cable on a city's right-of-way did not burden the city's property any more that did the placement of newspaper vending machines on city owned streets. The Court went on to hold that the City of Los Angeles could not deny a cable franchise to a company that wanted to operate in that city. Preferred Communications, Inc. v. City of Los Angeles, supra.

The courts have also rejected the argument that cable TV is a "natural monopoly" and therefore must be regulated. The Court in the Preferred case noted that the Supreme Court long ago ruled that the fact there is only one newspaper in most cities did not justify any licensing or regulation of newspapers.

As you know, there are the same number of local newspapers in Asheville as there are cable companies. Obviously, the Council would not think of shutting down the local newspaper because it raised its prices or because it dropped or added a columnist or published or failed to publish a news story or comic strip to which the City Council objected.

> of only one newspaper, approved by the city. . . ."
>
> Community Communications Company, Inc. v. City of Boulder, 630 F.2d 704, 714 (10th Cir. 1980), rev'd on other grounds, 455 U.S. 40 (1982).

In the most recent cable TV case involving the first amendment, a decision was handed down on July 19, 1985, by a federal Court of Appeals in Washington, D.C. The court there put it as follows:

> "It is now clearly established. . . that cable operators engage in conduct protected by the First Amendment."
>
> Quincy Cable TV, Inc. v. FCC, 768 F.2d 1434 (D.C. Cir. 1985)

That same Court rejected and overturned an attempt by Homestead Air Force Base in Florida to take away the franchise of a cable company operating on the base. The Court held that the cable company had stated a valid "First Amendment claim" against the Air Force base as a result of the effort to shut down the company's operations. Tele-Communications of Key West, Inc. v. United States, Slip Opinion, Case No. 84-5008 (D.C. Cir. April 2, 1985).

The history of municipal regulation of cable TV is a fascinating study in government regulation. Cities have come up with all kinds of theories over the years to justify regulation of cable. Some have argued that since cable is strung along public rights of way, cities can

ADJOURNMENT

Upon motion of Vice-Mayor Bratton, seconded by Councilman Myers, the meeting adjourned at 7:30 p.m.

MAYOR

CITY CLERK

I hope--and I know that hope is shared by Cablevision of Asheville--that the Council will work in partnership with the company to respond positively --not negatively--to the concerns which the Cable Study Commission has addressed. The President of the Company has assured you that he and his company will do everything they can do to provide the people of Asheville with a cable television service that is second to none. I urge you to accept that offer and to move forward together to achieve the common objectives which you both share for the good people of Asheville.

Thank you.

Upon inquiry of Councilman Bissette, Mr. Marinkovich said the programming changes in March, 1985, was a business decision to repackage service into a purely reception and information package and an entertainment package, and by doing so, would allow, and did allow, the reduction of the price of the premium services, such as HBO/Cinemax/and the Disney Channel to be in line of their values. He said the premium service channels were reduced by $2 each. He said, although Mr. Jerose communicated this information to members of Council in January or February, 1985, there might have been a communication problem with the subscribers in the area. He said Cablevision is in a competitive environment "with VCR's and backyard dishes". He said he felt the current pricing and packaging is appropriate for the Asheville subscribers.

Upon inquiry of Councilman Bissette, Mr. Marinkovich said programs throughout the country, that are managed by Daniels and Associates, are different because of different environments.

Mayor McDevitt said in order to clear up any misunderstandings, he wanted to note that Council had not acted upon the report given by the City Council Cable Study Commission. He said Asheville Cablevision or Daniels and Associates should not view this report as a notice of default, as the Asheville City Council has not acted upon the report. He said City Council is well aware of its rights and obligations under the current franchise agreement.

Mayor McDevitt said City Council tentatively plans to act upon this report on October 15, 1985.

RALPH BISHOP - LOTTERY SALES

Ralph Bishop again spoke to members of Council relative to lottery sales in the City of Asheville.

training offered through the Red Cross in First Aid, Small Craft or Water Safety. This highest award presented by the American National Red Cross has been presented to the above individuals for having saved the life of an individual by administering CPR on or about September 15, 1984.

Mayor McDevitt recognized Mr. John Stovall, Director of Safety Services with the American Red Cross.

Mr. Stovall said this was the highest recognition given by the American National Red Cross, and they were very pleased to be giving these Certificates of Merit to local citizens and employees of the City of Asheville. He introduced Mr. Doug Jones, Chairman of the Safety Committee for the American National Red Cross, who presented the Certificate of Merits and lapel pins to each of the individuals.

Mayor McDevitt read the resolution.

Upon motion of Councilman Frank, seconded by Councilman Price, Resolution No. 85-196 was unanimously adopted.

Mayor McDevitt presented each of the individuals with a copy of the resolution.

Complete text of Resolution No. 85-196 will be found in Resolution Book No. 15 at page 332.

RECOGNITION OF LARRY FISHER, DIRECTOR OF FINANCE - "AWARD OF FINANCIAL REPORTING ACHIEVEMENT"

5. Mayor McDevitt in recognizing Mr. Larry Fisher, Director of Finance for the City of Asheville, said he had received a letter from Mr. David R. Bean, with the Government Finance Officers Association, which read as follows:

August 16, 1985

The Honorable Larry S. McDevitt
Mayor
City of Asheville
P.O. Box 7148
Asheville, NC 28807

Dear Mayor McDevitt:

We are pleased to notify you that your comprehensive annual financial report for the fiscal year ended June 30, 1984 qualifies for a Certificate of Conformance in Financial Reporting. The Certificate of Conformance is the highest form of recognition in governmental accounting and financial reporting, and its attainment represents a significant accomplishment by a government and its management.

When a Certificate of Conformance is awarded to a government an Award of Financial Reporting Achievement is also presented to the individual designated by the government as primarily responsible for its having earned the certificate. Enclosed is an Award of Financial Reporting Achievement for:

Larry Fisher Director of Finance

Tuesday - October 15, 1985 - 4:00 p.m.

Regular Meeting

Present: Mayor Larry McDevitt, Presiding; Vice-Mayor Wilhelmina Bratton; Councilmen Mary Lloyd Frank, Norma T. Price, Gordon Myers, Walter R. Roland, and Louis Bissette; Corporation Counsel William F. Slawter; Acting City Manager Sam Graves; and Deputy City Clerk Carol Hensley.

Absent: Acting City Manager William F. Wolcott, Jr.

INVOCATION

The invocation was given by Vice-Mayor Bratton.

APPROVAL OF THE MINUTES - OCTOBER 8, 1985 MEETING

1. Approval of the minutes of the October 8, 1985 meeting.

Mayor McDevitt suggested that the minutes be amended to delete Mr. Wade Hargrove's summary relative to Asheville Cablevision, from the minutes and insert a verbatim text of Mr. Hargrove's presentation.

Mayor McDevitt announced approval of the minutes as amended.

PROCLAMATION - OCTOBER 20-26 - "NATIONAL LUPUS AWARENESS WEEK"

2. Mayor McDevitt read a proclamation proclaiming October 20-26, as "National Lupus Awareness Week".

Mayor McDevitt presented the proclamation to Mary Proctor, Chairman of the Lupus Support Group.

PROCLAMATION - OCTOBER 19, 1985 - "ST. JUDE CHILDREN'S RESEARCH HOSPITAL DAY"

3. Mayor McDevitt read a proclamation proclaiming October 19 as "St. Jude Children's Research Hospital Day."

Mayor McDevitt presented the proclamation to Dr. Steve Seibert, of the Biltmore Chiropractic Center.

RESOLUTION NO. 85-186 - RESOLUTION RECOGNIZING THE AWARDING OF THE CERTIFICATE OF MERIT FROM THE AMERICAN NATIONAL RED CROSS TO RICKY BATES, RAY SHIPMAN, LARRY BRADLEY, JACK RAMSEY, LEROY LUNSFORD AND H. C. ALDRIDGE, JR.

4. Consideration was given to a resolution recognizing the awarding of the Certificate of Merit from the American National Red Cross to Ricky Bates, Ray Shipman, Larry Bradley, Jack Ramsey, LeRoy Lunsford and H. C. Aldridge, Jr.

Mayor McDevitt said the American National Red Cross annually presents the National Certificate of Merit to persons who have saved or sustained a life by using skills and knowledge learned in volunteer

denial was based on the narrowness and curvature of Hazel Mill Road, which could possibly create traffic hazards. He presented a rendering for the proposed use of the property showing that the property would be used for greenhouses.

Mayor McDevitt noted that members of Council should base their decision only on rezoning the property to Commercial Highway District since all the permitted uses in the Commercial Highway District would be allowed.

Upon inquiry of Councilman Boland, Verl Emrick said Hazel Mill Road is primarily zoned R-3 Residential District.

Attorney Jerry Crow, representing the Freeman Estates, spoke in support of the rezoning. He said Hazel Mill Road is slowly gravitating to commercial development. He said the proposed use of the property, being green-
houses, will not generate additional traffic in the area since it is only a storage area except for a couple of times a year. He said the proposed use of the property would be better than the current vacant lot. He said the property would be fenced, landscaped, and buffered.

Mr. Ljungberg, of 240 Hazel Mill Road, spoke in opposition to the requested rezoning. He said if the property is rezoned, it would be strictly commercial property, and the residents in the area were opposed to commercial development. He suggested that the property be used as an office building location.

After discussion, Mayor McDevitt closed the public hearing at 5:05 p.m.

Mayor McDevitt said members of Council were furnished copies of the ordinance, rezoning the property as requested, and it would not be read in its entirety.

Councilman Price moved to support the recommendation of the Planning and Zoning Commission to deny the requested rezoning. This motion was seconded by Councilman Boland.

A discussion was held relative to prohibiting the property owner from requesting any rezoning of the property within a one-year time period if Council denies the rezoning.

After discussion, Councilman Price withdrew her motion to support the recommendation of the Planning and Zoning Commission to deny the requested rezoning. Councilman Boland consented to withdrawing the motion.

After calling for a motion relative to adoption of the ordinance, Mayor McDevitt announced that the ordinance died for the lack of a motion for adoption.

The Certificate of Conformance plaque will be shipped under separate cover in about six weeks. We hope that you will arrange for a formal presentation of the Certificate and Award of Financial Reporting Achievement, and that appropriate publicity will be given to this notable achievement. A sample news release is enclosed. We suggest that you provide copies of it to the local newspapers and radio and television stations.

We hope that your example will encourage other government officials in their efforts to achieve and maintain an appropriate standard of excellence in financial reporting. If you have any questions regarding this matter, or if we may be of any further assistance, please do not hesitate to contact us.

Sincerely,

GOVERNMENT FINANCE OFFICERS ASSOCIATION

David R. Bean
Assistant Director/Governmental Accounting Programs

DRB/pp

Enclosures

Mayor McDevitt presented the plaque and award to Larry Fisher.

Larry Fisher, Director of Finance, said this was the sixth Certificate of Conformance plaque to be received by the City of Asheville, and he was proud of the recognition.

PUBLIC HEARING - REZONING PROPERTY LOCATED ON HAZEL MILL ROAD

6. A public hearing was held relative to rezoning property located on Hazel Mill Road.

Mayor McDevitt said the Asheville Planning and Zoning Commission, at a meeting held September 11, 1985, considered the petition of Attorney S. J. Crow for Trustees of the Theodore Freeman Estate that Ward 6, Sheet 16, Lots 456 and 467, be rezoned from R-3 Residential District to CH Commercial Highway District. The property is located on Hazel Mill Road. After review and discussion, the Commission voted to recommend that the petition be denied and the property remain as it is now zoned. However, the petitioner has filed an appeal of the decision of the Planning and Zoning Commission, and has requested City Council to hold a public hearing relative to the rezoning.

Mayor McDevitt opened the public hearing at 4:34 p.m.

The Deputy City Clerk presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said the Asheville Planning and Zoning Commission denied the requested rezoning. He said the

REPORT - REHABILITATION OF APARTMENT HOUSE KNOWN AS 37 EAST CHESTNUT STREET

8. Vice-Mayor Bratton said on January 15, 1985, Council adopted Resolution No. 84-5 authorizing an agreement by and between Keith E. Harwood and wife Deborah Joan Harwood, owners of 37 East Chestnut Street, to rehabilitate the apartment house known as 37 East Chestnut Street. Said agreement provided that Mr. Harwood would report to Council on April 16, 1985, as to whether or not the apartment house has been brought into compliance with the North Carolina State Building Code and the minimum Housing Code of the City. On April 16, 1985, an amendment was authorized to the agreement to extend the time of completion of rehabilitation to the apartment house until the 16th day of October, 1985, with a report back to Council on October 15, 1985.

Lem Moore, Director of Inspections, said Mr. Harwood had fulfilled all the requirements of the agreement for the rehabilitation of 37 East Chestnut Street. He said his division had issued Certificate of Occupancies for all four units.

ORDINANCE NO. 1541 - AN ORDINANCE AMENDING ORDINANCE NO. 322 KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE" AS AMENDED - PROPERTY LOCATED ON HENDERSONVILLE ROAD (ATTORNEY CARSON FOR BILTMORE DAIRY FARMS, INC.)

9. Consideration was given to the second reading of Ordinance No. 1541, an ordinance amending Ordinance No. 322 known as "An ordinance providing for the zoning of the City of Asheville" as amended, property located on Hendersonville Road (Attorney Carson for Biltmore Diary Farms, Inc).

Mayor McDevitt returned to the meeting at 5:30 p.m.

Mayor McDevitt said the Asheville Planning and Zoning Commission at a meeting held August 7, 1985, considered the petition of Attorney Philip Carson for Biltmore Dairy Farms, Inc., that Ward 7, Sheet 52, Lot 169, be rezoned from R-2 Residential District to CH Commercial Highway District. The property is located on Hendersonville Road. After review and discussion, the Commission voted to recommend to City Council that Ward 7, Sheet 52, Lot 169, be rezoned from R-2 Residential District to CH Commercial Highway District. On October 1, 1985, at the request of Attorney Philip Carson and the petitioner, Biltmore Dairy Farms, Inc., the public hearing was continued until October 8, 1985. This ordinance passed on first reading on October 8, 1985.

Mayor McDevitt said this ordinance was previously read on first reading and would not be reread in its entirety unless there was a specific request to do so.

Upon inquiry of Councilman Bissette, Verl Emrick said he had not received information from the North Carolina Department of Transportation relative to the requested rezoning; however, he would be in contact with the North Carolina Department of Transportation before the third reading of the ordinance.

On a roll call vote of 7-0, Ordinance No. 1541 passed on second reading.

PUBLIC HEARING - SITE PLAN - SWEETEN CREEK VILLAGE APARTMENTS - SWEETEN CREEK ROAD

7. A public hearing was held relative to the site plan of the proposed Sweeten Creek Village Apartments to be located on Sweeten Creek Road.

Mayor McDevitt said the Asheville Planning and Zoning Commission, at a meeting held August 21, 1985, reviewed the site plan of the proposed Sweeten Creek Village Apartments to be located on Sweeten Creek Road. The site plan was prepared by Mills, Oliver and Webb, Inc., Blacksburg, Virginia, Architects-Engineers, for Fralin and Waldron, Inc., Roanoke, Virginia, Developers, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of the site plan to City Council subject to the following conditions: 1) final approval of entrance off Sweeten Creek Road from North Carolina Department of Transportation; and 2) compliance with the Erosion Control Ordinance.

Mayor McDevitt opened the public hearing at 5:16 p.m.

The Deputy City Clerk presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said the project would consist of a 120-unit complex. He said all zoning and group development requirements have been met for the site plan.

He presented a letter from Richard Phillips, with the North Carolina Department of Natural Resources and Community Development, which stated that the State would be responsible for the erosion control on this property. He said the erosion control plans have been submitted and are being reviewed by the North Carolina Department of Natural Resources and Community Development. He also presented a letter to Earl McIntire, with the North Carolina Department of Transportation, requesting approval of the entrance to the project.

Ridgley Robinson, Architect, spoke in support of the site plan.

Upon of inquiry of Councilman Price, Mr. Robinson said the property would be well preserved, and enhanced with landscaping and buffering.

Mayor McDevitt left the meeting at 5:20 p.m.

After discussion, Vice-Mayor Bratton closed the public hearing at 5:25 p.m.

Councilman Bissette moved to approve the site plan of the proposed Sweeten Creek Village Apartments to be located on Sweeten Creek Road subject to the final approval of the entrance off Sweeten Creek Road with the North Carolina Department of Transportation and compliance with the erosion control ordinance. This motion was seconded by Councilman Price and carried unanimously. (Mayor McDevitt voting "aye" as he was unexcused from the meeting.)

ORDINANCE NO. 1538 - AN ORDINANCE AMENDING ORDINANCE NO. 322 KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE" AS AMENDED - PROPERTY LOCATED ON OLD CHUNNS COVE ROAD (LARRY BUCKNER PETITION)

11. Consideration was given to the third reading of Ordinance No. 1538, an ordinance amending Ordinance No. 322 known as "an ordinance providing for the zoning of the City of Asheville" as amended - property located on Old Chunns Cove Road (Larry Buckner Petition).

Mayor McDevitt said the Asheville Planning and Zoning Commission, at a meeting held August 7, 1985, considered the petition of Mr. Larry Buckner, Buckner Associates, that Ward 8, Sheet 25, Lot 26, be rezoned from R-1 Residential District to R-2 Residential District. The property is located on Old Chunns Cove Road. After review and discussion, the Commission voted to recommend to City Council that Ward 8, Sheet 25, Lot 26, be rezoned from R-1 Residential District to R-2 Residential District. This ordinance passed on first reading on October 1, and on second reading on October 8, 1985.

Mayor McDevitt said this ordinance was previously read on first and second reading and would not be reread in its entirety unless there was a specific request to do so.

On a roll call vote of 7-0, Ordinance No. 1538 passed on third and final reading.

Complete text of Ordinance No. 1538 will be found in Ordinance Book No. 10 at page 308 and 309.

ORDINANCE NO. 1539 - AN ORDINANCE CREATING THE ASHEVILLE FAIR HOUSING COMMISSION

12. Consideration was given to the third reading of Ordinance No. 1539, an ordinance creating the Asheville Fair Housing Commission.

Mayor McDevitt said the City Council of the City of Asheville finds it in the public interest to promote fair housing practices in the City. The City Council desires to prevent discriminatory practices against any person in a real estate transaction. The U. S. Department of Housing and Urban Development has for many years encouraged and supported anti-discrimination initiatives through grant programs to the City designed to ensure equal opportunity for all citizens. The City Council of the City of Asheville does desire to create a Commission to be known as the Asheville Fair Housing Commission as authorized in Chapter 776, Sections 1, 2 and 3 of the General Statutes of North Carolina. This ordinance passed on first reading on October 1, and on second reading on October 8, 1985.

Mayor McDevitt said this ordinance was previously read on first and second reading and would not be reread in its entirety unless there was a specific request to do so.

Ralph Bishop spoke in opposition to the ordinance stating that this was an invasion of privacy.

ORDINANCE NO. 1542 - AN ORDINANCE AMENDING SECTION 19A-11 OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE (GRIEVANCE PROCEDURE)

10. Consideration was given to the second reading of Ordinance No. 1542, an ordinance amending Section 19A-11 of the Code of Ordinances of the City of Asheville.

Mayor McDevitt said a recent Supreme Court decision, Cleveland Board of Education vs. Loudermill, requires the City to institute pre-termination hearing procedures for any employees being terminated from City employment by the City. These procedures will also be used for employees being demoted or suspended without pay for more than five (5) days. In addition, a number of minor procedural changes are being made in the City's grievance process including: intermediate supervisors in the process; specifying hand delivery or delivery by certified mail of all notices; permitting employees to go the Civil Service Board if the grievance process isn't completed in 30 days; and removing a section making reinstatement actions retroactive to date a grievance is filed. This ordinance passed on first reading on October 8, 1985.

Mayor McDevitt said this ordinance was previously read on first reading and would not be reread in its entirety unless there was a specific request to do so.

David Anders, with the Asheville Firefighters Association, said the ordinance does not entitle an employee to confront or cross-examine adverse witnessess or to present witnesses on his own behalf, unless it is deemed necessary by a department head at a pre-determination hearing. He said he felt that an employee should be allowed to present witnesses and also have a representative available if they so desire. Mr. Anders requested that Council consider amending the ordinance to allow an automatic approval for employees to present witnesses or to be represented at a pre-determination hearing. He presented copies of decisions from the Ninth Circuit Court of Appeals where representatives were allowed at any disciplinary hearing.

Vice-Mayor Bratton, Councilman Boland, Councilman Price and Councilman Bissette all agreed that Mr. Anders had made a reasonable request and employees should have a right to be represented during a pre-determination hearing.

Council instructed the City Attorney to check on amending Ordinance No. 1542 to reflect Mr. Anders' request and to check the current law relative to reinstatement provisions.

On a roll call vote of 5-2, Ordinance No. 1542 passed on second reading with Councilman Boland and Vice-Mayor Bratton voting "no".

Mayor McDevitt urged members of Council to have appropriate motions/amendments ready for consideration at next week's meeting.

Mayor McDevitt instructed the Deputy City Clerk to mail a copy of the Resolution to Senators Helms and East and Congressman Hendon.

RESOLUTION NO. 85-189 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A DEED OF RELEASE BY AND BETWEEN THE CITY OF ASHEVILLE AND THE DEPARTMENT OF TRANSPORTATION

15. Consideration was given to a resolution authorizing the Mayor to execute a Deed of Release by and between the City of Asheville and the Department of Transportation.

Mayor McDevitt said the City of Asheville has conveyed to the Department of Transportation by a Deed of Correction dated August 13, 1985, a 20' wide right-of-way in which the City of Asheville retained for itself a joint use easement over same for use as fire lane and water line easement. The City has determined that a portion of the 20' easement, which contains no right-of-way, is not needed for use as a fire lane or for utilities. This resolution will authorize the Mayor to execute a Deed of Release between the City and the Department of Transportation.

Mayor McDevitt said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Price, seconded by Councilman Frank, Resolution No. 85-189 was unanimously adopted.

Complete text of Resolution No. 85-189 will be found in Resolution Book No. 15 at page 336.

RESOLUTION NO. 85-190 - RESOLUTION AUTHORIZING THE SALE OF CERTAIN PROPERTIES ACQUIRED BY THE COUNTY OF BUNCOMBE PURSUANT TO TAX FORECLOSURE

16. Consideration was given to a resolution authorizing the sale of certain properties acquired by the County of Buncombe pursuant to tax foreclosure.

Mayor McDevitt said the City of Asheville and the County of Buncombe entered into an Agreement dated November 5, 1984, to set forth the responsibilities of the City and County with regard to the prior responsibilities of the Buncombe County Board of Tax Supervision. Pursuant to that Agreement, the County is authorized to sell and convey all property heretofore titled in the name of the Buncombe County Board of Tax Supervision to such person or party and for such price on such terms as the Board of County Commissioners shall deem for the best interests of the City of Asheville, subject to the prior approval of the City of those lots within the City. Those properties titled in the name of the Buncombe County Board of Tax Supervision which are within the city limits of the City of Asheville have now been identified. City Council approves the sale of four lots by the County of Buncombe at a price not less than the current tax valuation. Total tax value of the lots would be $13,900. The City would receive approximately one-half of this as revenue.

Mayor McDevitt said members of Council were furnished copies of the resolution, and it would not be read in its entirety.

Upon motion of Councilman Price, seconded by Councilman Frank, Resolution No. 85-190 was unanimously adopted.

On a roll call vote of 7-0, Ordinance No. 1539 passed on third and final reading.

Complete text of Ordinance No. 1539 will be found in Ordinance Book No. 10 at page 310 and 311.

Vice-Mayor Bratton thanked Mayor McDevitt for his many efforts in getting this ordinance adopted.

RESOLUTION NO. 85-187 - RESOLUTION AUTHORIZING THE BARRICADING OF A PORTION OF EDGEWOOD ROAD ON OCTOBER 19, 1985

13. Consideration was given to a resolution authorizing the barricading of a portion of Edgewood Road on October 19, 1985.

Mayor McDevitt said this resolution will authorize the temporary closing of Edgewood Road from College Heights to University Heights on October 19, 1985, from 9:00 a.m. to 2:00 p.m. for the purpose of a St. Jude Children's Research Hospital Bike-A-Thon.

Mayor McDevitt said members of Council were furnished copies of the resolution, and it would not be read in its entirety.

Upon motion of Councilman Price, seconded by Councilman Myers, Resolution No. 85-187 was unanimously adopted.

Complete text of Resolution No. 85-187 will be found in Resolution Book No. 13 at page 333.

RESOLUTION NO. 85-188 - RESOLUTION SUPPORTING PROPOSED CHANGES IN THE FAIR LABOR STANDARDS ACT

14. Consideration was given to a resolution supporting proposed changes in the Fair Labor Standards Act.

Mayor McDevitt said the Supreme Court has ruled that state and local governments must comply with the Fair Labor Standards Act. This will create a great hardship for cities throughout the nation. It is estimated that the cost for Asheville alone will be anywhere from $200,000 to $250,000 per year, despite cost-cutting measures that will necessitate the hiring of new employees for jobs in which present city employees have traditionally "moonlighted". This resolution urges our representatives in Congress to support Senate Bill 1570, which would amend the Fair Labor Standards Act to exempt state and local government employees from the overtime provisions, exempt individuals providing services to state and local governments on a volunteer basis from the minimum wage and overtime provisions of the act, and eliminate the retroactive application of the act.

Mayor McDevitt said members of Council were furnished copies of the resolution, and it would not be read in its entirety.

Upon motion of Councilman Frank, seconded by Councilman Bissette, Resolution No. 85-188 was unanimously adopted.

Complete text of Resolution No. 85-188 will be found in Resolution Book No. 15 at page 334 and 335.

A discussion was held, instituted by Councilman Boland and Attorney Max Coghurn, as to whether the notification of default should be delayed until after the F.C.C. investigation in the event the Federal Communications Commission shows that the company is in compliance with their regulations.

Councilman Bissette said he felt the F.C.C. would deal only with issues involving its own regulations, it would not examine the issues involving the franchise that are detailed in the Commission's report.

Councilman Myers said City Council should address the concerns of all the citizen complaints expressed at the public hearing, the many telephone calls received by City staff and individual Councilmembers, and the many letters received relative to the service problems, picture quality, level of service, and the re-tiering of programming in March of 1983, which was a major voice of concern by the subscribers. He said the City Council Cable Television Commission was told by Asheville Cablevision that they would not return to programming provided by the basic service prior to March of 1983. He said he felt his action adversely affected many people in this community and City Council should address these concerns.

Ralph Bishop spoke to members of Council relative to the frustration of the subscribers in Asheville Cablevision changing the programming in March, 1983, on basic service.

Mayor McDevitt called for a five minute recess of Council.

Upon inquiry of Mayor McDevitt, Councilman Bissette said he would include in his motion that the City Attorney draft a letter for Council's approval next week relative to notification to Asheville Cablevision of its default, and that the company has 60 days to commence with correcting the problem as detailed in the report.

On a voice vote of 6-1, Councilman Bissette's motion passed with Councilman Boland voting "no".

Councilman Boland, in voting against the motion, said he felt the F.C.C. has the power to investigate the concerns in the Commission's report. He said he felt the F.C.C. investigation would be a first, logical step in a series of events, and if the first step is completed, Council may not need a second step.

Councilman Price, in addressing Attorney Max Coghurn, said one of the problems with Asheville Cablevision is the outages experienced in the West Asheville area.

BIDS - BULK SODIUM CHLORIDE FOR SNOW AND ICE CONTROL

18. Consideration was given to a motion relative to bids received for bulk sodium chloride for snow and ice control.

Mayor McDevitt said sealed bids were received for a term purchase contract to furnish the City's requirements for bulk sodium chloride for snow and ice control for the winter of 1985-86. Five (5) bids were received. It is recommended that the low bidder, Domtar Industries,

Complete text of Resolution No. 85-190 will be found in Resolution Book No. 15 at page 337 and 338.

Mayor McDevitt noted that the lots outlined in the resolution were as follows:

Tax Lot No.	Tax Value	Location
Ward 9, Sheet 8, Lot 73	$3,900.00	Fenner Avenue
Ward 6, Sheet 2, Lot 86	$3,800.00	Toxaway Street
Ward 6, Sheet 2, Lot 63	$4,000.00	Westwood Place Hazel Road
Ward 2, Sheet 5, Lot 111	$2,200.00	Holland

COUNCIL ACTION RELATIVE TO CITY COUNCIL CABLE TELEVISION COMMISSION REPORT

17. Mayor McDevitt said the Commission report was discussed during the Pre-Council meeting at some length with the representatives of Asheville Cablevision and their attorney Max Cogburn.

Councilman Bissette moved that the City Council Cable Television Commission's report be essentially adopted to recommend that the report, the results of the questionnaire, and the summaries of the proceedings of the public hearings be forwarded to Mr. Stephen Rawls, Chief of Cable TV Branch, Mass Media Bureau, Federal Communications Commission, 1919 Main Street Northwest, Washington, DC, with a formal request that an enforcement engineer be sent to Asheville to institute a full investigation of Asheville Cablevision's signal quality, service interruption problems, and overall operating procedures. Further, that the Asheville City Council notify Asheville Cablevision as soon as possible, pursuant to Section 32 of the franchise agreement of its default, and that the company has 60 days to commence with correcting the problems detailed in the report and that they may complete these corrections within a reasonable time or show cause why the City Council should not exercise its right to revoke and declare forefeited the franchise agreement and all rights of Asheville Cablevision. This motion was seconded by Vice-Mayor Bratton.

Max Cogburn, Attorney for Asheville Cablevision, spoke relative to the Commission's report stating that Asheville Cablevision is committed to doing what needs to be done and that the firm welcomes the F.C.C. investigation and will cooperate in every way. He requested that no further action be taken until the F.C.C. investigation is complete and that the problems outlined in the report could be resolved without formal notification of default. He said Asheville Cablevision would like to see a list of the problems outlined by the City Council Cable Television Commission.

Mike McFee, Acting General Manager for Asheville Cablevision, said it is hopeful that Asheville City Council knows that Asheville Cablevision is willing to work with Council, and that they would support the recommendation of Councilman Bissette. He said Asheville Cablevision would provide City Council with the most recent results of the annual F.C.C. report. He requested that Council take a less formal approach to the problems detailed in the report.

On a roll call vote of 7-0, Ordinance No. 1543 passed on first and final reading.

Complete text of Ordinance No. 1543 will be found in Ordinance Book No. 10 at page 317.

ACTION RELATIVE TO BIDS RECEIVED FOR HAW CREEK SEWER PROJECT

21. Mayor McDevitt said members of Council had discussed bids received for the Haw Creek Sewer Project in depth during the Pre-Council meeting.

After discussion, Councilman Price moved to accept the low bid presented by Huntley Construction Company in the amount of $131,459 for the Haw Creek Sewer Project. This motion was seconded by Councilman Frank and carried unanimously.

Mayor McDevitt said, if necessary, Council would take further action on the bids in two weeks.

RESOLUTION NO. 85-192 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT BY AND BETWEEN THE CITY OF ASHEVILLE AND ELB/MONITOR, INC. FOR TESTING FOR RESIDUAL ASBESTOS IN AREAS WHERE REMOVAL WORK HAS BEEN PERFORMED IN THE CITY BUILDING

22. Consideration was given to a resolution authorizing the Mayor to execute an agreement by and between the City of Asheville and ELB/Monitor, Inc. for testing for residual asbestos in areas where removal work has been performed in the City Building.

Mayor McDevitt said work to remove asbestos from surfaces in the boiler room and adjoining areas of the City Building is being performed. After this removal work has been performed, it is necessary that areas be tested for residual asbestos. The City has solicited informal bids for this testing from three firms qualified to perform the testing. The City staff recommends that City Council award the contract to ELB/Monitor, Inc. as the lowest responsible bidder.

Mayor McDevitt read the resolution.

Upon motion of Councilman Frank, seconded by Councilman Myers, Resolution No. 85-192 was unanimously adopted.

Complete text of Resolution No. 85-192 will be found in Resolution Book No. 15 at page 340.

SCHEDULING PUBLIC HEARING - CIVIL SERVICE RULE 17 (J) - ADDITIONAL HOLIDAY FOR EMPLOYEES OF THE CITY OF ASHEVILLE - MEMORIAL DAY

23. Councilman Price moved to schedule a public hearing relative to adopting an amendment to Civil Service Rule 17(j) providing for an additional holiday for members of the classified service of the City of Asheville, being Memorial Day, for November 12, 1985, at 4:00 p.m. This motion was seconded by Councilman Frank and carried unanimously.

Incorporated, Sifto Salt Division, be awarded the contract in the amount of $20,694.00. Funds in the amount of $500,000 were appropriated in the 1985-86 Public Works Operating Budget (0380/Materials Line Item), and purchases will be made as required.

Councilman Poland moved to award the bid to the low bidder, Domtar Industries, Inc., Sifto Salt Division, for estimated contract amount of $20,694. This motion was seconded by Councilman Price and carried unanimously.

The bid summary is as follows:

Bidder	Amount
Domtar Industries, Inc.	$20,694.00
Morton Salt Company	21,858.00
International Salt Co.	23,538.00
Diamond Crystal	25,800.00
Cargill Salt Co.	21,900.00

RESOLUTION NO. 85-191 - RESOLUTION GRANTING RIGHT-OF-WAY TO CAROLINA POWER AND LIGHT COMPANY FOR A SERVICE LINE ON DEAVERVIEW PARK PROPERTY

19. Consideration was given to a resolution granting right-of-way to Carolina Power and Light Company for a service line on Deaverview Park property.

Mayor McDevitt said Carolina Power and Light Co. has requested authority to establish one pole, one anchor, and approximately 60' of primary line on property owned by the City of Asheville and known as Deaverview Park. He said this easement is necessary to supply power to the West Congressional Jehovah Witness Church which is under construction on property immediately adjoining Deaverview Park on Johnston Boulevard. The establishment of this right-of-way and its primary electrical service will not interfere in any way with the use of the park area. This resolution will authorize the Mayor to execute a deed granting the easement to Carolina Power and Light Company.

Mayor McDevitt read the resolution.

Upon motion of Councilman Price, seconded by Councilman Frank, Resolution No. 85-191 was unanimously adopted.

Complete text of Resolution No. 85-191 will be found in Resolution Book No. 15 at page 339.

ORDINANCE NO. 1543 - BUDGET ORDINANCE AMENDMENT APPROPRIATING FUNDING FOR THE MAYOR'S COMMITTEE ON THE EMPLOYMENT OF THE HANDICAPPED

20. Consideration was given to a budget ordinance amendment to provide funding in the amount of $300 for support for the Mayor's Committee on Employment of the Handicapped. Funding will be provided from the General Fund Contingency.

Vice-Mayor Bratton moved for the adoption of Ordinance No. 1543. This motion was seconded by Councilman Frank.

2046

Tuesday - October 22, 1985 - 4:00 p.m.

Regular Meeting

Present: Mayor Larry McDevitt, Presiding; Vice-Mayor Wilhelmina Bratton; Councilmen Mary Lloyd Frank, Norma T. Price, Walter R. Boland, and Louis Bissette; Corporation Counsel William F. Slawter; Acting City Manager, William F. Wolcott, Jr.; and Deputy City Clerk, Carol Hensley.

Absent: Councilman Gordon Myers

INVOCATION

The invocation was given by Councilman Walter Boland.

APPROVAL OF THE MINUTES - OCTOBER 15, 1985 MEETING

1. Approval of the minutes of the October 15, 1985 meeting.

Mayor McDevitt announced the approval of the minutes with several minor changes.

EXPRESSION OF APPRECIATION TO AGENCIES, BUSINESSES, AND CONCERNED CITIZENS THAT HELPED DURING THE RECENT EMERGENCY AT BEAVER LAKE

Mayor McDevitt recognized the following agencies, businesses, and concerned citizens for their help and assistance during the recent emergency at Beaver Lake. He said although the outcome was a tragedy, with the drowning of Kenneth Bishop, the operation could not have been undertaken without the voluntary assistance of all involved.

Fire Department Personnel, American Red Cross, Asheville Police Department, Buncombe County EMS, Buncombe County Parks & Recreation, Asheville Area Rescue Squad, Inc., Burger King, Fairview Volunteer Fire Department, French Broad Fire Department, Hardees of Asheville, McDonalds Hamburgers, Pepsi Cola Company of Asheville, Red Diamond Service Station, Skyland Fire Department, Upper Hominy Fire Department, Wendy's Old Fashion Hamburgers, West Buncombe Fire Department, Mr. Grover Blazer, Mr. Herbert Hill, Frank Blankenship, Sr., Daniel Boone, Robert Bayer, Turner Rogers, President of the Lakeview Park Association; the Yancey County Rescue Squad, McDowell County Rescue Squad, Henderson County Rescue Squad, Jackson County Rescue Squad, and Tri-County ReAct.

Chief Ball of the Asheville Fire Department also expressed his appreciation to all those who helped during the emergency. He said the tremendous response and efforts of all these agencies, businesses, and citizens displayed the compassion for others when emergencies of this nature arise.

PROCLAMATION - "UNITED NATIONS DAY" - OCTOBER 24, 1985

2. Mayor McDevitt read a proclamation proclaiming October 24, 1985, as "United Nations Day".

MOTION RELATIVE TO ACTING CITY MANAGER - SAM GRAVES

24. At the request of the Corporation Counsel, Councilman Price moved to accept William F. Wolcott's decision to appoint Sam Graves, as Acting City Manager while he is on vacation. This motion was seconded by Councilman Frank and carried unanimously.

CLAIMS - MARY CARTER (STREETS) - NORMA SCHULMAN (PARKS AND RECREATION)

25. The Acting City Manager presented claims received from Mary Carter and Norma Schulman.

Mayor McDevitt referred the claims to the Corporation Counsel for investigation and recommendation.

CITY COUNCIL WORK SESSION SCHEDULED FRIDAY, OCTOBER 18, 1985 - 3:00 P.M.

26. Mayor McDevitt announced that City Council would be holding a work session on Friday, October 18, 1985, at 3:00 p.m. in the Council Conference Room in the City Hall Building.

RALPH BISHOP - LOTTERY SALES IN THE CITY OF ASHEVILLE

27. Ralph Bishop again spoke to members of Council relative to the lottery sales in the City of Asheville and the appointment of Sam Graves as Acting City Manager during Mr. Wolcott's absence.

ADJOURNMENT

Upon motion of Councilman Price, seconded by Councilman Myers, the meeting was adjourned at 8:10 p.m.

Tony McDevitt
MAYOR

William F. Wolcott
CITY CLERK

Thereupon, upon motion of Councilman Frank, seconded by Councilman Price, and carried, the order introduced and passed on its first and second readings on October 1, 1985, entitled: "ORDER AUTHORIZING $885,000 RANKIN STREET PARKING BONDS," was read in full a third time, and passed upon its final reading. The vote upon the final passage of said order was: Ayes: Mayor Larry McDevitt, Vice-Mayor Wilhelmina Bratton, Councilman Mary Lloyd Frank, Councilman Norma Price, Councilman Walter Boland, and Councilman Louis Bissette.

Noes: None

Mayor McDevitt then announced the order entitled "ORDER AUTHORIZING THE $885,000 RANKIN STREET PARKING BONDS" had been adopted.

The City Clerk was thereupon directed to publish said order once in the Asheville Times, together with the appended statement as required by the Local Government Bond Act, as amended.

Complete text of Ordinance No. 1540 will be found in Ordinance Book 10 at Page 312.

ORDINANCE NO. 1541 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED - PROPERTY LOCATED ON HENDERSONVILLE ROAD (ATTORNEY CARSON FOR BILTMORE DAIRY FARMS, INC.)

5. Consideration was given to the third reading of Ordinance No. 1541, an ordinance amending Ordinance No. 322, known as "an ordinance providing for the zoning of the City of Asheville," as amended - property located on Hendersonville Road (Attorney Carson for Biltmore Dairy Farms, Inc.)

Mayor McDevitt said the Asheville Planning and Zoning Commission at a meeting held August 7, 1985, considered the petition of Attorney Philip Carson for Biltmore Dairy Farms, Inc. that Ward 7, Sheet 52, Lot 169, be rezoned from R-2 Residential District to CH Commercial Highway District. The property is located on Hendersonville Road. After review and discussion, the Commission voted to recommend to City Council that Ward 7, Sheet 52, Lot 169, be rezoned from R-2 Residential District to CH Commercial Highway District. On October 1, 1985, at the request of Attorney Philip Carson and the petitioner, Biltmore Dairy Farms, Inc., the public hearing was continued until October 8, 1985. This ordinance passed on first reading on October 8, 1985, and on second reading on October 15, 1985.

Mayor McDevitt said this ordinance was previously read on first and second reading and would not be reread in its entirety unless there was a specific request to do so.

Councilman Bissette said Verl Emrick, Director of Planning, had been in contact with the North Carolina Department of Transportation for input relative to this rezoning. He said it was his understanding that the petitioner for the rezoning had said there would be no building constructed on the proposed right-of-way for the widening of Hendersonville Road by the North Carolina Department of Transportation.

Mayor McDevitt presented a copy of the proclamation to Richardson Rice, Vice-President of the Local Chapter for United Nations Association.

RESOLUTION NO. 85-193 - RESOLUTION COMMENDING THE HILLCREST 4-H GARDEN CLUB FOR WINNING THE ACGA/GLAD NATIONAL COMMUNITY GARDENING CONTEST

3. Consideration was given to a resolution commending the Hillcrest 4-H Garden Club for winning The ACGA/GLAD National Community Gardening Contest.

Mayor McDevitt said the Hillcrest Garden Club has been selected as a special population site winner in The ACGA/GLAD National Community Gardening Contest. As a winner in ACGA's Southern region, the Hillcrest Garden Club has been awarded $100.00 to be used by the Club.

Upon motion of Councilman Bissette, seconded by Councilman Price, Resolution No. 85-193 was unanimously adopted.

Complete text of Resolution No. 85-193 will be found in Resolution Book 15 at Page 341.

Mayor McDevitt recognized Thomas Youngblood-Peterson, with MAGIC, who presented Mr. Johnny Hayes, Director of the Hillcrest 4-H Club with a check for $100.00 to be used by the Garden Club to further their activities.

Mayor McDevitt recognized the Hillcrest 4-H Club members that were in attendance at the meeting, and presented a copy of the Resolution to Keisha Battle, President of the Hillcrest 4-H Club.

PUBLIC HEARING - ISSUANCE OF $885,000 RANKIN STREET PARKING BONDS

ORDINANCE NO. 1540 - ORDER AUTHORIZING $885,000 RANKIN STREET PARKING BONDS

4. Mayor McDevitt announced that this was the date and hour fixed by the Council for the public hearing upon the order entitled: "ORDER AUTHORIZING $855,000 RANKIN STREET PARKING BONDS" and that the Council would immediately hear anyone who might wish to be heard on the question of the validity of said order or the advisibility of issuing said bonds.

Mayor McDevitt opened the public hearing at 4:33 p.m.

The Deputy City Clerk presented the notice to public, setting the time and date for the public hearing and the affidavit of publication.

Upon inquiry of Ralph Bishop, Mayor McDevitt said the City would own the property upon which the parking deck would be built prior to construction of the parking deck. He said the parking deck would be in connection with the Haywood-Wall Street Redevelopment Plan. He said in case of default, and the Haywood Street Redevelopment Project is not carried through, the full faith and pledge of the City of Asheville would be pledged for the parking bonds.

Mayor McDevitt closed the public hearing at 4:37 p.m.

The Director of Finance announced that no written statement relating to the question of the issuance of the bonds had been received.

Councilman Price moved for the adoption of Ordinance No. 1544. This motion was seconded by Councilman Bissette.

On a roll call vote of 6-0, Ordinance No. 1544 passed on first and final reading.

Complete text of Ordinance No. 1544 will be found in Ordinance Book No. 10 at Page 318.

Councilman Price moved to direct the City Staff to accrue interest separately on the Pack Plaza Project - cultural arts contribution - and that a budget amendment be submitted to Council, at a later date, appropriating the accrued interest into this budget line item. This motion was seconded by Councilman Bissette and carried unanimously.

ORDINANCE NO. 1545 - BUDGET ORDINANCE AMENDMENT FOR THE McDOWELL STREET IMPROVEMENT PROJECT

8. Consideration was given to a budget ordinance amendment for the McDowell Street Improvement Project.

Mayor McDevitt said this amendment will appropriate CDBG funds for the City's share of the Municipal Agreement with NCDOT for the McDowell Street Improvement Project. The project includes widening McDowell Street between Asheland Avenue and the Victoria Street tunnel. Local share of this NCDOT project - $72,990.00. Funds available for this project include anticipated revenue from sale of City property in the R-48 urban renewal area.

Mayor McDevitt said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Councilman Boland moved for the adoption of Ordinance No. 1545. This motion was seconded by Councilman Frank.

On a roll call vote of 6-0, Ordinance No. 1545 passed on first and final reading.

Complete text of Ordinance No. 1545 will be found in Ordinance Book No. 10 at Page 319.

APPROVAL OF THE CONSENT AGENDA

9. Consideration was given to a motion approving the consent agenda.

Mayor McDevitt said the following items are of a routine nature and they have been previously reviewed by the members of the City Council. Therefore, by unanimous vote to approve these items, the City Council may, pursuant to the procedures established in Ordinance No. 1008, adopt all of the items with one motion without the full reading and/or separate motion adopting each individual item. Upon the request of a citizen, a member of the City Council, and/or a member of the City staff, any single item scheduled for approval on the consent agenda may be considered separately.

Councilman Price said she felt this property could best be used for multi-family dwellings.

Philip Carson, Attorney for Biltmore Dairy Farms, Inc., said the petitioner would be sending a letter to Verl Emrick, Director of Planning, stating that Biltmore Dairy Farms, Inc. would not build anything on the proposed right-of-way for the widening of Hendersonville Road.

Mayor McDevitt noted that although the letter to Mr. Emrick relative to building on the proposed right-of-way was a good gesture, it was not a condition or a request by Council of the petitioner for the rezoning.

Mr. Carson said he was aware that the letter was not a condition of the rezoning, but was voluntary.

On a roll call of 6-0, Ordinance No. 1541 passed on third and final reading.

Complete text of Ordinance No. 1541 will be found in Ordinance Book 10 at Page 313 and 314.

ORDINANCE NO. 1542 - AN ORDINANCE AMENDING SECTION 19A-11 OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE (GRIEVANCE PROCEDURE)

6. Consideration was given to the third reading of Ordinance No. 1542, an ordinance amending Section 19A-11 of the Code of Ordinances of the City of Asheville (Grievance Procedure).

Mayor McDevitt said a recent Supreme Court decision, Cleveland Board of Education vs. Loudermill, requires the city to institute pre-termination hearing procedures for any employees being terminated from city employment by the city. These procedures will also be used for employees being demoted or suspended without pay for more than five (5) days. In addition, a number of minor procedural changes are being made in the city's grievance process including: intermediate supervisors in the process; specifying hand delivery or delivery by certified mail of all notices; permitting employees to go to the Civil Service Board if the grievance process isn't completed in 30 days; and removing a section making reinstatement actions retroactive to date a grievance is filed. This ordinance passed on first reading on October 8, 1985, and on second reading on October 15, 1985.

Councilman Price moved to postpone the third reading of Ordinance No. 1542 until the October 29, 1985, meeting and that the matter be scheduled on the pre-Council work session agenda for October 29, 1985. This motion was seconded by Councilman Boland and carried unanimously.

ORDINANCE NO. 1544 - BUDGET ORDINANCE AMENDMENT FOR THE PACK PLAZA PROJECT - CULTURAL ARTS CONTRIBUTION

7. Consideration was given to a budget ordinance amendment for the Pack Plaza Project - Cultural Arts Contribution.

Mayor McDevitt said this amendment would appropriate a contribution from the Developer in the amount of $150,000, this funding was not included in the original project budget.

DISCUSSION RELATIVE TO BIDS RECEIVED FOR THE HAW CREEK SEWER PROJECT - BILL HOBSON

Bill Hobson, with Hobson Construction Company, spoke to members of Council relative to the bids recently received for the Haw Creek Sewer Project. He said he understood that the low bidder, Huntley Construction Company, made an error in his bid, and that Council had accepted that bid. He said he also understood that Huntley Construction Company had rejected acceptance of the bid. He requested that Council accept the second low bidder for the Haw Creek Sewer Project rather than rebidding the project. He said he understood the change-over in the Water & Sewer Department, and that the bid specifications had been changed several times before being let to bids.

Mr. Latham, with Associated General Contractors for the Carolina's, said he represented contractors bidding on municipal contracts in the Carolina's. He said, in his opinion, it would not be fair to contractors bidding on the project for City Council to rebid the contract when they have a reputable second low bidder. He said the second low bidder is responsive and is within the budget. He said the main concern of rebidding the project would be that the contractors who presented bids have already revealed their bids which have been made public. He said if the project is rebid, he would request that the bid specifications be modified.

Mayor McDevitt told Mr. Hobson and Mr. Latham that Council would take their comments into consideration.

RALPH BISHOP - PRESS CONTROL - ACTING CITY MANAGER APPOINTMENT

Mr. Ralph Bishop read an article to members of Council relative to the news media and press being controlled, and relative to Sam Graves being appointed as Acting City Manager while Mr. Wolcott, the Interim City Manager was on vacation last week.

ADJOURNMENT

Upon motion of Councilman Price, seconded by Councilman Frank, the meeting adjourned at 5:10 p.m.

MAYOR

CITY CLERK

A. Motion to schedule a public hearing relative to rezoning property located at #4 Clairmont Avenue for November 12, 1985.

HIGHLIGHTS: The Asheville Planning and Zoning Commission at a meeting held October 2, 1985, considered the petition of Mr. Tim Wilson that Ward 9, Sheet 6, Lot 35, be rezoned from R-3 Residential District to CH Commercial Highway District. The property is located at #4 Clairmont Avenue. After review and discussion, the Commission voted to recommend to City Council that Lot 35 and Lot 34, Sheet 6, Ward 9, be rezoned from R-3 Residential District to CH Commercial Highway District.

FISCAL IMPACT: None

B. Motion to schedule a public hearing for Phase Three of the Hazelwood Subdivision to be located on North Louisiana Avenue for November 12, 1985.

HIGHLIGHTS: The Asheville Planning and Zoning Commission at a meeting held October 2, 1985, approved the final plat of Phase Three of the Hazelwood Subdivision to be located on North Louisiana Avenue. This plat was prepared by S. V. Griffith, R.L.S. for Frank McGahren and Walter Weiss, Developers, and submitted in accordance with Ordinance No. 424, as amended. The Commission approved the preliminary plat subject to compliance with the Erosion Control Ordinance.

FISCAL IMPACT: None

Upon motion of Councilman Frank, seconded by Councilman Price, the Consent Agenda was unanimously approved.

COUNCIL MEETING OF NOVEMBER 5, 1985 - CANCELLED

Councilman Price moved that the regular meeting scheduled for November 5, 1985, for the Asheville City Council be cancelled. This motion was seconded by Councilman Boland and carried unanimously.

CLAIMS - DIANA HUMPHREYS (STREET) - MAXINE McCOLLUM (WATER)

The Acting City Manager presented claims received from Diana Humphreys and Maxine McCollum.

Mayor McDevitt referred the claims to the Corporation Counsel for investigation and recommendation.

LAWSUITS - GRANT COLBERTS AUTO MARKET VS. ASHEVILLE POLICE DEPARTMENT (SMALL CLAIMS ACTION - WRONGFUL ACT) - ALFRED FULTON ROBERTS VS. CITY (WRONGFUL ACT - LEAKAGE IN WATER LINES)

The Acting City Manager said the City was served with summonses in connection with lawsuits involving Grant Colberts Auto Market vs. Asheville Police Department and Alfred Fulton Roberts, et al, vs. City.

Mayor McDevitt referred the summonses to the Corporation Counsel for investigation and recommendation.

New Orleans, Louisiana. The Hillcrest Enrichment Program has received the Juvenile Association Award, the Excellent Community Award, the Governor's Award, and other awards, and brought honor and distinction to the program and to the City. The Hillcrest Enrichment Program is to be commended for its accomplishments and achievements and its positive influence and contributions to the Hillcrest community and to the City of Asheville. This resolution will proclaim the week of November 2 - 8, 1985 as "Unity Week" with the central theme being "Keep Unity in Community".

Upon motion of Councilman Boland, seconded by Councilman Price, Resolution No. 85-194 was unanimously adopted.

Complete text of Resolution No. 85-194 will be found in Resolution Book No. 15 at page 342.

Vice-Mayor Bratton presented the resolution to Beverly Williams, Advisor for the Hillcrest Enrichment Program.

INTRODUCTION OF NEW GENERAL MANAGER FOR ASHEVILLE CABLEVISION

2B. Mr. Mike McPhee, Acting General Manager for Asheville Cablevision, introduced Mr. Joe Haight, who will be the new General Manager for Asheville Cablevision.

Mr. McPhee said Asheville Cablevision would be launching a new program called "Asheville Video Probe" which would feature Asheville and Buncombe County on November 6, 1985 at 9:00 p.m. with a preview being at 6:00 p.m. to which members of Council were invited.

PUBLIC HEARING - REZONING PROPERTY LOCATED AT GEORGIA AVENUE AND CRAVEN STREET

ORDINANCE NO. 1546 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE" AS AMENDED - PROPERTY LOCATED ON CRAVEN STREET, (MR. LAWRENCE LYNCH PETITION)

3. A public hearing was held relative to rezoning property located on Georgia Avenue and Craven Street.

Vice-Mayor Bratton said the Planning and Zoning Commission at a meeting held September 11, 1985, considered the petition of Mr. Lawrence Lynch, that Ward 6, Sheet 1, Lot 91, be rezoned from R-3 Residential District to CS Commercial Service District. The property is located at Georgia Avenue and Craven Street. After review and discussion, the Commission voted to recommend to City Council that a portion of Lot 91, Sheet 1, Ward 6, be rezoned from R-3 Residential District to CS Commercial Service District.

Vice-Mayor Bratton opened the public hearing at 4:20 p.m.

The Deputy City Clerk presented the notice to the public setting the time and date for the public hearing, and the affidavit for publication.

Verl Emrick, Director of Planning, said the Planning and Zoning Commission had recommended that Council rezone a portion of Lot 91, Sheet 1, Ward 6. He said there was no opposition expressed relative to the rezoning, and the petitioner requested the rezoning for a proposed use of an automobile shop.

Tuesday - October 29, 1985 - 4:00 p.m.

Regular Meeting

Present: Vice-Mayor Wilhelmina Bratton, Presiding; Councilmen Mary Lloyd Frank, Norma T. Price, Walter R. Boland, and Louis Bissette; Corporation Counsel William F. Slawter; Acting City Manager William F. Wolcott, Jr., and Deputy City Clerk Carol Hensley.

Absent: Mayor Larry McDevitt; and Councilman Gordon Myers

INVOCATION

The invocation was given by Councilman Mary Lloyd Frank.

APPROVAL OF THE MINUTES - OCTOBER 22, 1985 MEETING

1. Approval of the minutes of the October 22, 1985 meeting.

Vice-Mayor Bratton announced the approval of the minutes as submitted.

PROCLAMATION - NOVEMBER 3 - 9, 1985 - "MEMORIAL MISSION HOSPITAL WEEK"

2. Vice-Mayor Bratton read a proclamation proclaiming the week of November 3 - 9, 1985 as "Memorial Mission Hospital Week".

Vice-Mayor Bratton presented the proclamation to Robert Burgin, with the Memorial Mission Hospital.

PROCLAMATION - MONTH OF NOVEMBER, 1985 - "BETTER BUSINESS BUREAU SOLICITATION EDUCATION MONTH"

Vice-Mayor Bratton read a proclamation proclaiming the month of November, 1985 as "Better Business Bureau Solicitation Education Month".

Vice-Mayor Bratton presented the proclamation to Dr. Lewis Rathburn, Board Member for the Better Business Bureau.

RESOLUTION NO. 85-194 - RESOLUTION OF COMMENDATION OF THE HILLCREST ENRICHMENT PROGRAM AND PROCLAIMING THE WEEK OF NOVEMBER 2 - 8, 1985 TO BE "UNITY WEEK"

2A. Consideration was given to a resolution of commendation of the Hillcrest Enrichment Program and proclaiming the week of November 2 - 8, 1985 to be "Unity Week".

Vice-Mayor Bratton read the resolution stating that the Hillcrest Enrichment Program was founded in 1977 in the Hillcrest community to serve the youth and the community, and to promote and encourage scholastic achievement, good citizenship, and good conduct at home, school, and in the community. The program has been utilized for the March of Dimes Walk-A-Thon, Quality Forward Cleanup Efforts and numerous community service projects. The Hillcrest Enrichment Program participants have represented the City of Asheville in parades throughout North and South Carolina, and at the 1984 World's Fair in

ORDINANCE NO. 1542 - AN ORDINANCE AMENDING SECTION 19A-11 OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE (GRIEVANCE PROCEDURE)

5. Consideration was given to the third reading of Ordinance No. 1542, an ordinance amending Section 19A-11 of the Code of Ordinances of the City of Asheville (Grievance Procedure).

Vice-Mayor Bratton said a recent Supreme Court decision, Cleveland Board of Education vs. Loudermill, requires the City to institute pre-termination hearing procedures for any employees being terminated from employment by the City. These procedures will also be used for employees being demoted or suspended without pay for more than five (5) days. In addition, a number of minor procedural changes are being made in City's grievance process including: intermediate supervisors in the process; specifying hand delivery or delivery by certified mail of all notices; permitting employees to go to the Civil Service Board if the grievance process isn't completed in 30 days; and removing a section making reinstatement actions retroactive to the date a grievance is filed. This ordinance passed on first reading on October 8, 1985 and on second reading on October 15, 1985. At the October 22, 1985 meeting, the third reading was postponed until October 29, 1985.

Vice-Mayor Bratton said this ordinance was previously read on first and second reading, and it would not be read in its entirety unless there was a specific request to do so.

Councilman Bissette moved to amend Ordinance No. 1542 Section 1(a)(2), the second sentence to read as follows, "The Department Head shall take the necessary administrative actions which will ensure that the employee's interests and rights are adequately represented and protected at the hearing." This motion was seconded by Councilman Frank.

David Anders, with the Asheville Firefighters Association, said he felt the language would still be a department head decision as to whether or not an employee could be represented at a pre-termination hearing. He said he did not feel this amendment was proper because it did not give employees the automatic right to have representation at a pre-termination hearing.

Councilman Bissette said he felt the language would provide a positive assurance that an employee's reasonable request for representation would be honored. He said if a department head did not honor a reasonable request of an employee, the department head would be violating the intent of this ordinance.

Councilman Boland said he felt the City Manager should set guidelines for department heads to follow on a pre-termination procedure.

Ralph Bishop spoke in support of an employee having representation at a pre-termination hearing.

On a voice vote of 5-0, Councilman Bissette's motion to amend Ordinance 1542 carried unanimously.

On a roll call vote of 5-0, Ordinance No. 1542 passed on third and final reading, as amended.

Complete text of Ordinance No. 1542 will be found in Ordinance Book No. 10 at page 315.

Vice-Mayor Bratton closed the public hearing at 4:25 p.m.

Vice-Mayor Bratton said members of Council were previously furnished copies of the Ordinance and it would not be read in its entirety.

Councilman Boland moved for the adoption of Ordinance No. 1546. This motion was seconded by Councilman Bissette.

On a roll call vote of 5-0, Ordinance No. 1546 passed on first reading.

PUBLIC HEARING - SITE PLAN FOR PACK PLAZA PROJECT

4. A public hearing was held relative to a site plan for the Pack Plaza Project.

Vice-Mayor Bratton said on November 27, 1984, City Council reviewed and approved the site plan of the South Pack Plaza Project in concept. She said it is now in order for Council to consider the final approval to the site plan. She said the fiscal impact of the project would be:

Total Project Cost:	$18,200,000
Developer Debt/Equity	$13,000,000
UDAG Grant	3,200,000
Local Contributions	2,000,000

Anticipated Tax Increase:	
Property	$56,970
Sales	23,400
Personal	21,000
Total	$101,370/yr.

Vice-Mayor Bratton opened the public hearing at 4:28 p.m.

The Deputy City Clerk presented the notice to the public setting the time and date for the public hearing, and the affidavit of publication.

Verl Emrick, Director of Planning, said this is the final step in getting the project to the building permit stage. He said there was no change since the tentative approval by Council, and the only modifications are minor design changes that have been made to meet historic preservation requirements. He said all but two pieces of property have been acquired and the project is ready to move ahead without obtaining the additional property at the present time.

Upon inquiry of Ralph Bishop, Verl Emrick said no local ad valorem taxes were involved in the project.

Vice-Mayor Bratton closed the public hearing at 4:31 p.m.

Councilman Frank moved to approve the site plan for the Pack Plaza Project. This motion was seconded by Councilman Bissette and carried unanimously.

Mr. Charles Fant plans to build a single family residence on Disposal Parcel 187-B at an estimated construction cost of $40,000.00.

57-A,B,C are located at the intersection of Southside, McDowell and Asheland Avenue.

96-B.2 is located on Lyman Street.

99 is located on Lyman Street.

187-B is located on Beech Street off Livingston Street.

Councilman Frank moved to accept the recommendation of the Housing Authority relative to the sale of Disposal Parcels 57-A,B,C; 96-B.2; 99; and 187-B in the East Riverside Development Area. The motion was seconded by Councilman Price and carried unanimously.

RESOLUTION 85-195 - RESOLUTION AUTHORIZING THE MAYOR TO MAKE APPLICATION FOR STATE WATER GRANT FUNDS FOR THE WATER MASTER PLAN PROJECT

8. Consideration was given to a resolution authorizing the Mayor to make application for State Water Grant Funds for the Water Master Plan Project.

Vice-Mayor Bratton said the State has recently appropriated grant funds for eligible water projects to counties and municipalities. Such grants are to be made for eligible projects on a 50% matching basis. The recently adopted Asheville/Buncombe Water Authority Water System Master Plan is such an eligible project. A resolution must be adopted by April 1, 1986 indicating that it will proceed with an eligible project. This resolution will authorize the Mayor to make application for the Water System Master Plan Project.

Vice-Mayor Bratton said members of Council were previously furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Price, seconded by Councilman Boland, Resolution No. 85-195 was unanimously adopted.

Complete text of Resolution No. 85-195 will be found in Resolution Book No. 15 at page 343-344.

RESOLUTION NO. 85-196 - RESOLUTION DESIGNATING THE COMMUNITY ARTS COUNCIL TO RECEIVE FUNDS FROM THE DONATION OF PACK PLAZA ASSOCIATES LIMITED PARTNERSHIP FOR THE CULTURAL ARTS AND SCIENCE FACILITIES IN THE PACK PLAZA REDEVELOPMENT PROJECT

9. Consideration was given to a resolution designating the Community Arts Council to receive funds from the donation of Pack Plaza Associates, Limited Partnership for the Cultural Arts and Science Facilities in the Pack Plaza Redevelopment Project.

Vice-Mayor Bratton said this resolution would authorize the Interim City Manager to transfer $12,500 of the $150,000 contribution from Pack Plaza Associates, Limited Partnership for the Cultural Arts and Science Facilities in

Councilman Boland moved that the Asheville City Council or Council's designee, hold a hearing in six months, from this date, for City employees and department heads to comment on the effectiveness of Ordinance No. 1542. This motion was seconded by Councilman Bissette and carried unanimously.

FURTHER ACTION ON BIDS RELATIVE TO HAW CREEK SEWER LINE PROJECT

6. Vice-Mayor Bratton said on Tuesday, October 8, 1985, bids were opened for the Haw Creek area sewerage facilities. The apparent low bidder was Huntley Construction Company with a bid of $131,459.00. In a meeting with the Water and Sewer Staff, Mr. Huntley reported that he had made an error in his bid of approximately $100,000,00. During the City Council meeting on October 15, 1985, a motion was made and seconded to accept the bid of Huntley Construction Company in the amount of $131,459.00 and that, if needed, further action relative to the bids would be taken at the October 29, 1985 meeting.

Councilman Price moved to reject all bids, except the Huntley Construction Company bid in the amount of $131,459.00, for the Haw Creek Sewer Line Project. This motion was seconded by Councilman Bissette and carried unanimously.

Councilman Price said since errors were made in the bidding process, she did not feel taxpayers should bear the expense of the difference between the low bid, and the second low bid and they should not bear the burden of a mistake made by the contractors in this profession.

SALE OF DISPOSAL PARCELS 57-A,B,C, 96-B.2, 99 and 187-B - EAST RIVERSIDE REDEVELOPMENT AREA

7. Consideration was given to a motion approving the sale of disposal parcels 57-A,B,C, 96-B.2, 99, and 187-B in the East Riverside Redevelopment Area.

Vice-Mayor Bratton said the Housing Authority has tentatively accepted the following bids for certain disposal parcels in the East Riverside Redevelopment Area.

Parcel	Reuse	Price	Bid	Redeveloper
57-A,B,C	Commercial	$331,000.00	$497,500.00	Windswept Views of Asheville, Inc.
96-B.2	Lt. Industrial	25,000.00	25,200.00	Bushfield Land Co.
99	Lt. Industrial	9,700.00	10,100.00	A. Jerome Dave
187-B	Residential	5,750.00	5,911.00	Charles L. Fant

Windswept Views of Asheville, Inc. plans to develop 57-A,B, & C as office condominiums consisting of five (5) two-story buildings with on-grade parking and entry at each level. A total of 55,000 sq. ft. will be constructed at an estimate cost of $3,575,000.00.

Bushfield Land Company plans to build a 4,800 sq. ft. office building on Disposal Parcel 96-B.2 at an estimated construction cost of $210,000.00.

Mr. Jerome Dave plans to build an office building for Dave Steel Co. on Disposal Parcel 99 at an estimated cost of $125,000.00 - $150,000.00.

the residents of the Redwood Forest Subdivision and Shawnee Trail to rezone their property from R-2 Residential District to R-1 Residential District.

FISCAL IMPACT: None

B. Consideration of a motion scheduling a public hearing relative to the adoption of an ordinance designating "The Gate House" at 265 Charlotte Street as historic property for November 26, 1985.

HIGHLIGHTS: The structure known as "The Gate House" was completed in 1899 as the entrance to the grounds of the Manor Inn, and remains an impressive Lodge of shingle, stucco, and timber with a rock tower. It also serves as a reminder of the architecture of early resort developments in Western North Carolina. The Historic Resources Commission of Asheville and Buncombe County has demonstrated the historic significance of the building, and the Division of Archives and History of North Carolina Department of Cultural Resources has endorsed the findings of the Commission.

FISCAL IMPACT: None

C. Consideration of a motion scheduling a public hearing relative to the adoption of an ordinance designating "first block of North Market Street and Langren Alley" as historic property for November 26, 1985.

HIGHLIGHTS: North Market Street is the last street in the City of Asheville having brick pavement, and Langren Alley is the last street in the City of Asheville having Belgian block pavement. These pavements figured prominently in the development of Asheville's thoroughfares. The Historic Resources Commission of Asheville and Buncombe County has demonstrated the historic significance of the building, and the Division of Archives and History of North Carolina Department of Cultural Resources has endorsed the findings of the Commission.

FISCAL IMPACT: None

D. Consideration of a motion scheduling a public hearing relative to the adoption of an ordinance designating "The Manor Inn" at 265 Charlotte Street as historic property for November 26, 1985.

HIGHLIGHTS: "The Manor" was completed in 1899 as an "English Country Inn in America", and is a rare surviving example of the picturesque resort development so important to the history of the North Carolina mountains. The Historic Resources Commission of Asheville and Buncombe County has demonstrated the historic significance of the building, and the Division of Archives and History of North Carolina Department of Cultural Resources has endorsed the findings of the Commission.

FISCAL IMPACT: None

the Pack Plaza Redevelopment Project to the Community Arts Council, as contract administrator for the Cultural Facilities Committee, for the first phase of a feasibility study by the consultant for said Cultural Arts and Science Facilities.

Vice-Mayor Bratton said members of Council were previously furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Price, seconded by Councilman Frank, Resolution No. 85-196 was unanimously adopted.

Complete text of Resolution No. 85-196 will be found in Resolution Book No. 85 at page 345-346.

RESOLUTION NO. 85-197 - RESOLUTION CREATING A POLICEMEN'S PENSION/DISABILITY FUND TASK FORCE

10. Consideration was given to a resolution creating a Policemen's Pension/Disability Fund Task Force.

Vice-Mayor Bratton said the City Council has received several requests from active and inactive members of the Police Pension and Disability Fund. In an effort to effectively respond to these requests, the Council desires to create a task force to review current requests and related issues following the plan.

Vice-Mayor Bratton said members of Council were previously furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Frank, seconded by Councilman Price, Resolution No. 85-197 was unanimously adopted.

Complete text of Resolution No. 85-197 will be found in Resolution Book No. 15 at 347, 348, and 349.

APPROVAL OF THE CONSENT AGENDA

11. Consideration was given to a motion approving the consent agenda.

Vice-Mayor Bratton said the following items are of a routine nature and they have been previously reviewed by the members of the City Council. Therefore, by unanimous vote to approve these items, the City Council may, pursuant to the procedures established in Ordinance No. 1008, adopt all of the items with one motion without the full reading and/or separate motion adopting each individual item. Upon the request of a citizen, a member of the City Council, and/or a member of the City staff, any single item scheduled for approval on the consent agenda may be considered separately.

A. Consideration of a motion scheduling a public hearing relative to rezoning the Redwood Forest Subdivision and Shawnee Trail for November 19, 1985.

HIGHLIGHTS: The Asheville Planning and Zoning Commission at a meeting held October 2, 1985, reviewed and approved the petition of

Upon motion of Councilman Frank, seconded by Councilman Price, Resolution No. 85-199 was unanimously adopted.

Complete text of Resolution No. 85-199 will be found in Resolution Book No. 15 at page 351.

COUNCIL MEETING SCHEDULED FOR NOVEMBER 12, 1985 - CANCELLED

14. Councilman Price moved to cancel the regularly scheduled Council meeting of November 12, 1985 due to the lack of a quorum in that the majority of members of Council would be attending a North Carolina League of Municipalities meeting in Raleigh, North Carolina. This motion was seconded by Councilman Frank and carried unanimously.

RESCHEDULING PUBLIC HEARING - REZONING PROPERTY LOCATED AT 4 CLAIRMONT AVENUE

15. Councilman Price moved to reschedule the public hearing relative to rezoning property located at 4 Clairmont Avenue for November 19, 1985. This motion was seconded by Councilman Frank and carried unanimously.

RESCHEDULING PUBLIC HEARING - PHASE THREE OF THE HAZELWOOD SUBDIVISION - LOCATED NORTH LOUISIANA AVENUE

16. Councilman Price moved to reschedule the public hearing for Phase Three of the Hazelwood Subdivision to be located on North Louisiana Avenue for November 19, 1985. This motion was seconded by Councilman Frank and carried unanimously.

RESCHEDULING PUBLIC HEARING - DESIGNATING ADDITIONAL HOLIDAY FOR CITY EMPLOYEES - MEMORIAL DAY

17. Councilman Price moved to reschedule the public hearing relative to designating an additional holiday for City employees (Memorial Day) for November 26, 1985. This motion was seconded by Councilman Frank and carried unanimously.

CLAIMS - HERMAN SMITH (WATER) - ARNOLD KROCHMAL (WATER) - LEE BLANKE (WATER)

18. The Acting City Manager presented claims from Herman Smith, Arnold Krochmal, and Lee Blanke.

Vice-Mayor Bratton referred the claims to the Corporation Counsel for investigation and recommendation.

RESOLUTION NO. 85-200 - RESOLUTION AUTHORIZING THE LINCOLN CITY MANAGER TO SIGN AN AGREEMENT OF FINAL COMPROMISE, SETTLEMENT AND RELEASE FOR WADE COLE WORKERS' COMPENSATION CLAIM

19. Consideration was given to a resolution authorizing the City Manager to sign an agreement of final compromise, settlement and release for Wade Cole Workers' Compensation Claim.

E. Consideration of a motion scheduling a public hearing relative to the adoption of an ordinance designating "The Grove Arcade Building" on Battle Square as historic property for November 26, 1985.

HIGHLIGHTS: "The Grove Arcade" was designed by prominent architect George N. Parker and built for famous developer and entrepreneur Edwin W. Grove, known as the "Father of Twentieth Century in Asheville". "The Grove Arcade" is a grand and flamboyant building constructed of fine ornamental terra cotta and stone, and is finished inside and out with Tudoresque and medieval ornamentation. This building is also a rare example of an interior shopping arcade with covered pedestrian thoroughfares. The Historic Resources Commission of Asheville and Buncombe County has demonstrated the historic significance of the building, and the Division of Archives and History of North Carolina Department of Cultural Resources has endorsed the findings of the Commission.

Upon motion of Councilman Price, seconded by Councilman Frank, the consent agenda was unanimously approved.

RESOLUTION NO. 85-198 - RESOLUTION ACCEPTING EASEMENT FROM LAKEVIEW PARK COMMISSION, INC., FOR THE CONSTRUCTION AND MAINTENANCE OF GLEN FALLS ROAD BRIDGE

12. Consideration was given to a resolution accepting easement from Lakeview Park Commission, Inc., for the construction and maintenance of Glen Falls Road Bridge.

The Acting City Manager read the resolution stating that the Lakeview Park Commission is the owner of the property adjoining Glen Falls Road Bridge, and construction of a new bridge at this site is necessary. The Lakeview Park Commission, Inc. has consented to grant to the City of Asheville a perpetual 60' easement for the purpose of construction and maintenance of the bridge. He said this resolution will accept the easement from the Lakeview Park Commission, Inc.

Upon motion of Councilman Bissette, seconded by Councilman Price, Resolution No. 85-198 was unanimously adopted.

Complete text of Resolution No. 85-198 will be found in Resolution Book No. 15 at page 350.

RESOLUTION 85-199 - RESOLUTION AUTHORIZING THE PURCHASING DIRECTOR TO SELL SURPLUS MOTOR VEHICLES AT PUBLIC AUCTION

12. Consideration was given to a resolution authorizing the Purchasing Director to sell surplus motor vehicles at public auction.

The Acting City Manager read the resolution stating that the Motor Transport Superintendent has declared 47 motor vehicles as surplus. He said the Purchasing Director would be authorized to dispose of these vehicles by public auction to take place at the new Vehicle Maintenance Facility on South Charlotte Street beginning at 10:00 a.m. on Saturday, November 23, 1985.

ADJOURNMENT TO EXECUTIVE SESSION

Councilman Boland moved to adjourn the meeting to go into Executive Session. This motion was seconded by Councilman Bissette and carried unanimously.

MAYOR

CITY CLERK

The Corporation Counsel read the resolution stating that Wade Cole sustained a compensable injury under Chapter 97 of the North Carolina General Statutes for Workers' Compensation on or about the 14th day of October, 1975, and the City of Asheville has paid Mr. Cole all benefits to which he is entitled under the North Carolina Workers' Compensation Act to date. The City of Asheville and Wade Cole have reached an agreement as to the amount of compensation due for the permanent partial disability he incurred from said injury. The agreement for final compromise settlement and release fully and accurately describes the extent of his disabilities and the amount of compensation to which Mr. Cole is entitled for the disabilities. The City of Asheville and Wade Cole mutually desire to finally establish the limits to which the City of Asheville shall be liable for these injuries. This resolution will authorize the Interim City Manager to execute an agreement with Wade Cole on behalf of the City of Asheville.

Upon motion of Councilman Price, seconded by Councilman Bissette, Resolution No. 85-200 was unanimously adopted.

Complete text of Resolution No. 85-200 will be found in Resolution Book No. 15 at page 352.

COMMENTS BY BARRY OLEN - WALL STREET MERCHANT - REDEVELOPMENT PLAN

Mr. Barry Olen, Wall Street merchant, spoke to Council relative to the recently adopted Redevelopment Plan for the Haywood/Wall Street Area. He said he felt that representatives from the local Haywood/Wall Street Area should be included on the Design Review Board outlined in the Redevelopment Plan. He said he felt this would allow citizen participation in the plan.

Mr. Olen also spoke relative to the proposed Wall Street Plan stating that the square footage suggested for businesses by the proposed developer would not be adequate for Wall Street merchants.

Vice-Mayor Bratton requested that Mr. Olen put his request relative to the Design Review Board in writing, and submit the suggestions to members of Council.

RALPH BISHOP - LOTTERY SALES IN THE CITY OF ASHEVILLE

Ralph Bishop again spoke to members of Council relative to the lottery sales in the City of Asheville.

COMMENTS RELATIVE TO REINSTATEMENT ACTIONS ON GRIEVANCE PROCEDURES BY CITY EMPLOYEES - DAVID ANDERS

The Asheville Firefighters Association again requested information relative to the reinstatement of actions being retroactive to the date a grievance is filed.

Corporation Counsel Slawter advised Mr. Anders that the Civil Service Board has the authority to reinstate any corrective measures back to the date of the wrongful act.

Complete text of Ordinance No. 1547 will be found in Ordinance Book No. 10 at Page 324.

MAYOR McDEVITT CONGRATULATED INCUMBENT COUNCIL MEMBERS ON THEIR RE-ELECTION TO COUNCIL

Mayor McDevitt congratulated the incumbent Council members for their re-election in the recent City Council election, and Louis Bissette for his election as Mayor of the City of Asheville.

VOTING DELEGATE - NORTH CAROLINA LEAGUE OF MUNICIPALITIES CONVENTION - NOVEMBER 10-12, 1985

It was the consensus of Council that Councilman Louis Bissette be the voting delegate for the City of Asheville at the North Carolina League of Municipilities Convention in Raleigh November 10-12, 1985, and that Councilman Mary Lloyd Frank be the City of Asheville's alternate Voting Delegate.

MAYOR McDEVITT - ANNOUNCEMENT OF STATE OF CITY ADDRESS

Mayor McDevitt noted that the Asheville Rotary Club is hosting a meeting on November 14, 1985, at 12:30 p.m. at which time he would be giving a State of the City Address. He asked members of Council to attend and to let him know if they have any thoughts or ideas for him to cover during the State of the City Address.

ADJOURNMENT TO EXECUTIVE SESSION

Councilman Price moved to adjourn to executive work session to discuss real estate, personnel, and legal matters. This motion was seconded by Councilman Bissette and carried unanimously.

MAYOR

CITY CLERK

Thursday - November 7, 1985 - 4:00 p.m.

Special Meeting

Present: Mayor Larry McDevitt, Presiding; Vice-Mayor Wilhelmina Bratton; Councilmen Mary Lloyd Frank, Norma T. Price, Walter R. Boland, and Louis Bissette; Corporation Counsel William F. Slawter; Acting City Manager William F. Wolcott, Jr; and Deputy City Clerk Carol Hensley.

Absent: Councilman Gordon Myers

INVOCATION

The invocation was given by Councilman Louis Bissette.

RESOLUTION NO. 85-201 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE ON BEHALF OF THE CITY AN AGREEMENT BY AND BETWEEN THE CITY OF ASHEVILLE AND INDUSTRIAL MAINTENANCE AND OVERFLOW CORPORATION FOR BOILER REPLACEMENT IN THE CITY HALL BUILDING

1. Consideration was given to a resolution authorizing the Mayor to execute on behalf of the City an agreement by and between the City of Asheville and Industrial Maintenance and Overflow Corporation for boiler replacement in the City Hall Building.

Mayor McDevitt read the resolution stating that a new replacement boiler has been delivered and the consulting architect has prepared contract documents for the replacement of one of the existing boilers. The consulting architect and City staff have recommended that the contract for the work be awarded to Industrial Maintenance and Overflow Corporation as the lowest responsible bidder, in the amount of $22,435.00.

Upon motion of Councilman Price, seconded by Councilman Frank, Resolution No. 85-201 was unanimously adopted.

Complete text of Resolution No. 85-201 will be found in Resolution Book No. 15 at Page 353.

ORDINANCE NO. 1547 - BUDGET ORDINANCE AMENDMENT TO PROVIDE FUNDING FOR THE REPLACEMENT OF THE CITY HALL BOILER

2. Consideration was given to a budget ordinance amendment to provide funding for the replacement of the City Hall boiler, including acquisition, installation, and removal of asbestos in the amount of $58,300.00.

Mayor McDevitt read the ordinance.

Councilman Boland moved for the adoption of Ordinance No. 1547. This motion was seconded by Councilman Bissette.

On a roll call vote of 6-0, Ordinance No. 1547 passed on first and final reading.

RESOLUTION NO. 85-202 - RESOLUTION OF APPRECIATION TO ASSISTANT CHIEF JOHN W. PARRIS

4b. Consideration was given to a resolution of appreciation to Assistant Chief John W. Parris.

Mayor McDevitt read the resolution stating that Assistant Chief Parris has faithfully served the City of Asheville since 1956, being promoted to Assistant Chief in 1978, and has requested retirement from his present post, effective July 1, 1985.

Upon motion of Councilman Boland, seconded by Councilman Bissette, Resolution No. 85-202 was unanimously adopted.

Complete text of Resolution No. 85-202 will be found in Resolution Book No. 15 at page 354.

Mayor McDevitt presented a copy of the resolution to Assistant Chief John Parris.

DONATION FROM LONG JOHN SILVER'S - MAYOR'S COMMITTEE FOR EMPLOYMENT OF THE HANDICAPPED COMMITTEE

5. Mayor McDevitt introduced Mr. Tom Waller, Manager of Long John Silver's in Biltmore, and Gary Martin, Chairman of the Mayor's Committee for Employment of the Handicapped. He said Long John Silver's in Biltmore recently opened a new store, and he was invited to attend a ribbon cutting of the opening of the new store. He said since he was unable to attend, Vice-Mayor Bratton attended the ribbon cutting. He said Long John Silver's made a donation of $200 to the Mayor's favorite charity. He said it was his decision to present the donation to the Mayor's Committee for Employment of the Handicapped.

Mayor McDevitt thanked Mr. Waller and Long John Silver's for their contribution to the Mayor's Committee for Employment of the Handicapped.

SWEARING IN OF POLICE RESERVE OFFICERS - B. L. PENLEY - B. R. MARTIN - D. R. GALLAGHER - R. S. DUTCHER

6. Mayor McDevitt, assisted by Lt. Mike Berry, swore in Police Reserve Officers B. L. Penley, B. R. Martin, D. R. Gallagher, and R. S. Dutcher.

Mayor McDevitt thanked these citizens for offering their time as Police Reserve Officers.

PUBLIC HEARING - REZONING PROPERTY LOCATED AT #4 CLAIRMONT AVENUE

ORDINANCE NO. 1548 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE" AS AMENDED - PROPERTY LOCATED ON CLAIRMONT AVENUE (MR. TIM WILSON PETITION)

7. A public hearing was held relative to rezoning property located at #4 Clairmont Avenue.

Tuesday - November 19, 1985 - 4:00 p.m.

Regular Meeting

Present: Mayor Larry McDevitt, Presiding; Vice-Mayor Wilhelmina Bratton; Councilmen Mary Lloyd Frank, Norma T. Price, Walter R. Boland, and Louis Bissette; Corporation Counsel William F. Slawter; Acting City Manager William F. Wolcott, Jr.; Deputy City Clerk Carol Hensley.

Absent: Councilman Gordon Myers.

INVOCATION

The invocation was given by Councilman Walter Boland.

APPROVAL OF THE MINUTES - OCTOBER 29, 1985 MEETING

1. Approval of the minutes of the October 29, 1985 meeting.

Mayor McDevitt announced the approval of the minutes as submitted.

APPROVAL OF THE MINUTES - SPECIAL MEETING OF NOVEMBER 7, 1985

2. Approval of the minutes of the special meeting of November 7, 1985.

Mayor McDevitt announced the approval of the minutes as submitted.

PROCLAMATION - NOVEMBER 24 - DECEMBER 1, 1985 - "BIBLE WEEK IN ASHEVILLE"

3. Mayor McDevitt read a proclamation proclaiming November 24 - December 1, 1985, as "Bible Week in Asheville."

Mayor McDevitt presented a copy of the proclamation to Dr. Claude Frazier.

Dr. Frazier made comments relative to the proclamation.

PROCLAMATION - NOVEMBER, 1985 - "ROTARY INTERNATIONAL MONTH"

4. Mayor McDevitt proclaimed the month of November, 1985, as "Rotary International Month."

PROCLAMATION - NOVEMBER, 1985 - "ALZHEIMER'S DISEASE AWARENESS MONTH"

4a. Mayor McDevitt read a proclamation proclaiming the month of November, 1985, as "Alzheimer's Disease Awareness Month."

Mayor McDevitt presented a copy of the proclamation to Mrs. Sid Ezzell.

Mrs. Sid Ezzell said a local organization has an office in the Doctors Building for anyone who would like information relative to Alzheimer's Disease.

PUBLIC HEARING - PHASE THREE OF THE HAZELWOOD SUBDIVISION - NORTH LOUISIANA AVENUE

8. A public hearing was held relative to Phase Three of the Hazelwood Subdivision to be located on North Louisiana Avenue.

Vice-Mayor Bratton said the Asheville Planning and Zoning Commission, at a meeting held October 2, 1985, approved the final plat of Phase Three of the Hazelwood Subdivision to be located on North Louisiana Avenue. This plat was prepared by S. V. Griffith, R.L.S. for Frank McGahren and Walter Weiss, Developers, and submitted in accordance with Ordinance No. 424, as amended. The Commission approved the preliminary plat subject to compliance with the Erosion Control Ordinance.

Vice-Mayor Bratton opened the public hearing at 4:50 p.m.

The Deputy City Clerk presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said all other phases of the Hazelwood Subdivision have received prior approval. He said the Planning and Zoning Commission had approved the preliminary plat of Phase Three of the Hazelwood Subdivision subject to compliance with the Erosion Control Ordinance.

A discussion was held, instituted by Councilman Price, relative to the subdivision not being subject to City Building Code requirements. She said she felt the subdivision should be provided with fire hydrants.

Walter Weiss, Developer of Hazelwood Subdivision, said the developers are not required to put in fire hydrants. He said he felt the fire pumper truck with the West Buncombe Volunteer Fire Department would be capable of taking care of any fires in the subdivision.

Councilman Boland said he concurred with Councilman Price that fire hydrants should be provided in a subdivision, and he also felt that a fire pumper truck would not be sufficient to take care of a fire in a subdivision.

Vice-Mayor Bratton closed the public hearing at 4:56 p.m.

After discussion, Mayor McDevitt moved to defer action on Phase Three of the Hazelwood Subdivision until November 26, 1985, giving the developer an opportunity to review the possibility of installing fire hydrants in the subdivision. This motion was seconded by Councilman Boland and carried unanimously.

PUBLIC HEARING - REZONING REDWOOD FOREST SUBDIVISION AND SHAWNEE TRAIL

ORDINANCE NO. 1549 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE" AS AMENDED - PROPERTY LOCATED IN REDWOOD FOREST AND SHAWNEE TRAIL AREA (MR. TED MORRIS AGENT)

9. A public hearing was held relative to rezoning the Redwood Forest Subdivision and Shawnee Trail.

Mayor McDevitt said the Asheville Planning and Zoning Commission, at a meeting held October 2, 1985, considered the petition of Mr. Tim Wilson that Ward 9, Sheet 6, Lot 35, be rezoned from R-3 Residential District to CH Commercial Highway District. The property is located at #4 Clairmont Avenue. After review and discussion, the Commission voted to recommend to City Council that Lot 35 and Lot 34, Sheet 6, Ward 9, be rezoned from R-3 Residential District to CH Commercial Highway District.

Mayor McDevitt opened the public hearing at 4:33 p.m.

The Deputy City Clerk presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said the Asheville Planning and Zoning Commission had recommended the rezoning of Lot 35 and Lot 34 from R3 Residential District to CH Commercial Highway District. He said concerns were expressed relative to direct access onto Clairmont Avenue. He said Council could have the option of rezoning only a portion of Lot 35, leaving a 10-foot buffer zoned R3 Residential District to prohibit access onto Clairmont Avenue.

Jim Groce, with the Citizens Home Center, said his company has the opportunity to purchase this property for expansion of their present business. He said they are not interested in access from Clairmont Avenue, mainly because Clairmont Avenue is a narrow street. He said the expansion would be used for a garden shop and parking.

A discussion was held relative to leaving a 10-foot buffer zoned R3 Residential District prohibiting the use of the property for commercial development.

Mayor McDevitt requested that Council excuse him from participation and voting on the rezoning of #4 Clairmont Avenue due to the fact that his law firm represents Mr. Groce, and he felt this would be a complict of interest.

Councilman Bissette moved to excuse Mayor McDevitt from voting on the issue relative to rezoning property located at #4 Clairmont Avenue. This motion was seconded by Councilman Frank and carried unanimously.

Vice-Mayor Bratton took over the meeting.

Upon inquiry of Councilman Bissette, Mr. Emrick said during the Planning and Zoning Commission meeting, questions were only raised relative to clarification, and that no opposition had been expressed at the meeting.

Vice-Mayor Bratton closed the public hearing at 4:46 p.m.

Councilman Price moved for the adoption of Ordinance No. 1548, provided that a 10-foot buffer on Lot 35 remain zoned R3 Residential District. This motion was seconded by Councilman Boland.

On a roll call vote of 5-0, Ordinance No. 1548 passed on first reading.

Vice-Mayor Bratton said she was thoroughly familiar with the area and would support the requested rezoning to R-1 Residential District.

Vice-Mayor Bratton moved for the adoption of Ordinance No. 1549. This motion was seconded by Councilman Boland.

On a roll call vote of 6-0, Ordinance No. 1549 passed on first reading.

ORDINANCE NO. 1546 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE" AS AMENDED - PROPERTY LOCATED ON CRAVEN STREET (MR. LAWRENCE LYNCH)

10. Consideration was given to the second reading of Ordinance No. 1546, an ordinance amending Ordinance No. 322, known as "An ordinance providing for the zoning of the City of Asheville," as amended - property located on Craven Street (Mr. Lawrence Lynch petition).

Mayor McDevitt said the Asheville Planning and Zoning Commission, at a meeting held September 11, 1985, considered the petition of Mr. Lawrence Lynch that Ward 6, Sheet 1, Lot 91, be rezoned from R-3 Residential District to CS Commerical Service District. The property is located at Georgia Avenue and Craven Street. After review and discussion, the Commission voted to recommend to City Council that a portion of Lot 91, Sheet 1, Ward 6, be rezoned from R-3 Residential District to CS Commerical Service District. This ordinance passed on first reading on October 29, 1985.

Mayor McDevitt said this ordinance was previously read on first reading and would not be reread in its entirety unless there was a specific request to do so.

On a roll call vote of 6-0, Ordinance No. 1546 passed on second reading.

RESOLUTION NO. 85-203 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A LEASE AGREEMENT WITH THE ASHEVILLE MALL, INC., FOR LOCATING A TWO-WAY FM RADIO TRANSMITTER AT WHITE FAWN RESERVOIR

11. Consideration was given to a resolution authorizing the City Manager to execute a lease agreement with the Asheville Mall, Inc., for locating a two-way FM radio transmitter at White Fawn Reservoir.

Mayor McDevitt said the City of Asheville owns and operates a two-way FM radio system under license from the Federal Communications Commission. These facilities and equipment are located at White Fawn Reservoir. The Asheville Mall, Inc., desires to locate a two-way FM radio transmitter and antenna at the White Fawn site. This resolution will authorize the City Manager to enter into a lease agreement on behalf of the City with The Asheville Mall, Inc.

Mayor McDevitt said members of Council were furnished copies of the resolution, and it would not be read in its entirety.

Mayor McDevitt resumed the Chair.

Mayor McDevitt said the Asheville Planning and Zoning Commission, at a meeting held October 2, 1985, reviewed and approved the petition of the residents of the Redwood Forest Subdivision and Shawnee Trail to rezone their property from R-2 Residential District to R-1 Residential District.

Mayor McDevitt opened the public hearing at 5:03 p.m..

The Deputy City Clerk presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said the property requested to be rezoned contains 98 lots. He said there were 68 signatures of property owners in the area. He said if the property is rezoned, five lots would be nonconforming due to lot size, and 47 lots would be nonconforming due to width of the lots. He said the property requested to be rezoned has deed restrictions. He said objections to the rezoning had been received from Asheville Contracting Company, owner of Lot 18, through their attorney, George Saenger.

Gwen Radeker, Attorney representing Edwin Green, owner of 10.6 acres on Shawnee Trail, spoke in favor of the rezoning. He said the only access onto land on Shawnee Trail is through Redwood Forest.

Richard Schumacher, Attorney representing the Redwood Forest Subdivison, spoke in support of the rezoning, stating that the neighborhood has only one access road and cannot accommodate additional traffic. He said he felt that single family residential district is the best use for the land in Redwood Forest. He said that City Council also, in their adoption of the 1977 Land Use Plan, had stated that this area should be used strictly for single family residences. He said he did not feel Council should delay action on the rezoning pending recommendations from Alternatives for Asheville relative to a comprehensive plan for the City of Asheville.

Attorney George Saenger, representing Asheville Contracting Company, owner of Lot 18, said his client objected and protested to the proposed rezoning. He said his client owns property at the intersection of I-240 and Highway 70, property which was filled from materials from the I-240 cut. He said the property was filled and compacted for future use at State standards, and the property is not appropriate for R-1 zoning. He said his client does not object to other rezonings requested, but did object to their own property being rezoned. He requested that Council delete Lot 18 from the requested rezoning. He said he also feels Alternatives for Asheville recommendations will be important, and it is prudent for Council to listen to their recommendations.

Mayor McDevitt closed the public hearing at 5:26 p.m.

Mayor McDevitt said Eugene Rankin Elementary School is property owned by the Asheville City Board of Education. The Board is of the opinion that the use of Eugene Rankin Elementary School property is neither necessary nor desirable for use by the Board for public school purposes. The City of Asheville owns property north of Ira B. Jones Elementary School which is known as the "Swain Property." The City no longer needs this property for its purposes and has determined that this property will most likely be needed by the Board for future expansion of Ira B. Jones Elementary School properties. This resolution will authorize the Mayor to execute any documents required for the exchange of these properties, said documents to be approved by the Corporation Counsel.

Mayor McDevitt also noted that a provision would be in the agreement that the Asheville City Board of Education shall be required to demolish and remove the existing buildings on the Rankin School property at its expense, with the City to provide trucks and truck drivers to haul off the debris from said demolition. He said the conveyance by the City to the Board of the Swain Property shall be by non-warranty deed which shall provide that title thereto shall revert to the City in the event the Board ceases to use the property for public school purposes.

Upon motion of Councilman Bissette, seconded by Councilman Boland, Resolution No. 85-205 was unanimously adopted.

Complete text of Resolution No. 85-205 will be found in Resolution Book No. 15 at page 357 and 358.

RESOLUTION NO. 85-206 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH CLEAR DAY, INC., FOR PROFESSIONAL WINDOW CLEANING SERVICES AND EXTERIOR CAULKING OF WINDOWS FOR THE CITY HALL BUILDING

14. Consideration was given to a resolution authorizing the City Manager to enter into an agreement with Clear Day, Inc., for professional window cleaning services and exterior caulking of windows for the City Hall Building.

Mayor McDevitt said bid requests were sent to 26 prospective vendors with only two companies returning bids. Clear Day, Inc., is the lowest responsible bidder. This resolution will authorize the City Manager to enter into an agreement with Clear Day, Inc., to provide window cleaning service and exterior, caulking of windows for the City Hall Building.

Mayor McDevitt said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Frank, seconded by Councilman Price, Resolution No. 85-206 was unanimously adopted.

Complete text of Resolution No. 85-206 will be found in Resolution Book No. 15 at page 359.

Upon motion of Councilman Frank, seconded by Councilman Price, Resolution No. 85-203 was unanimously adopted.

Complete text of Resolution No. 85-203 will be found in Resolution Book No. 15 at page 355.

RESOLUTION NO. 85-204 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE ON BEHALF OF THE CITY OF ASHEVILLE AN AGREEMENT BY AND BETWEEN THE CITY OF ASHEVILLE AND ENWRIGHT ASSOCIATES, INC., FOR THE DESIGN SERVICES FOR A MULTI-LEVEL PARKING DECK ON RANKIN AVENUE

11. Consideration was given to a resolution authorizing the Mayor to execute on behalf of the City of Asheville an agreement by and between the City of Asheville and Enwright Associates, Inc., for the design services for a multi-level parking deck on Rankin Avenue.

Mayor McDevitt said the Asheville City Council has decided to construct a multi-level parking structure on the site of the current municipal parking lots located on property bounded on the east by Rankin Avenue, on the north by Walnut Street and on the south by College Street. This resolution will authorize the Mayor to enter into an agreement with Enwright Associates, Inc., for the design and construction inspection of a multi-level deck parking structure on Rankin Avenue.

The consultant's design fee of $111,000 plus reimbursable expenses of $8,630 (total $119,630) will be budgeted in the Downtown Redevelopment Fund/ Haywood Street Redevelopment Plan.

Upon inquiry of Ralph Bishop, Mayor McDevitt said the City of Asheville has not yet acquired the property on which the parking facility will be built.

Upon motion of Councilman Boland, seconded by Councilman Frank, Resolution No. 85-204 was unanimously adopted.

Complete text of Resolution No. 85-204 will be found in Resolution Book No. 15 at page 356.

RESOLUTION NO. 85-205 - RESOLUTION AUTHORIZING THE MAYOR ON BEHALF OF THE CITY OF ASHEVILLE TO EXECUTE ANY AND ALL DOCUMENTS NECESSARY TO EXCHANGE CITY-OWNED PROPERTY KNOWN AS THE "SWAIN PROPERTY" LOCATED NORTH OF IRA B. JONES ELEMENTARY SCHOOL FOR THE EUGENE RANKIN ELEMENTARY SCHOOL TRACT OWNED BY THE ASHEVILLE CITY BOARD OF EDUCATION

13. Consideration was given to a resolution authorizing the Mayor on behalf of the City of Asheville to execute any and all documents necessary to exchange City-owned property known as the "Swain Property" located north of Ira B. Jones Elementary School for the Eugene Rankin Elementary School tract owned by the Asheville City Board of Education.

Councilman Bissette read the resolution stating that the Blue Ridge Parkway management has found Asheville to be both a logical and desirable location for its permanent headquarters, and after a lengthy identification and evaluation process, a 81.66 acre tract on Hemphill Knob has been selected as the best possible location for a Blue Ridge Parkway Headquarters facility and visitor center in the Asheville area. He said this resolution will support the Department of Interior's purchase of this land for use as the Blue Ridge Parkway's permanent headquarters and would urge our representatives in the United States Congress to seek approval of the project.

Upon motion of Councilman Bissette, seconded by Councilman Price, Resolution No. 85-207 was unanimously adopted.

Complete text of Resolution No. 85-207 will be found in Resolution Book No. 15 at page 360.

RESOLUTION NO. 85-208 - RESOLUTION AUTHORIZING THE PURCHASING DIRECTOR TO SELL SURPLUS MOTOR VEHICLES AT PUBLIC AUCTION

18. Consideration was given to a resolution authorizing the Purchasing Director to sell surplus motor vehicles at a public auction.

Resolution No. 85-199, adopted October 29, 1985, authorized the disposal of 47 motor vehicles, and the City's Motor Transport Superintendent has identified seven additional vehicles as surplus property. He says this resolution will authorize the sell of the seven additional vehicles at the auction to be held on November 23, 1985.

Upon motion of Councilman Price, seconded by Councilman Frank, Resolution No. 85-208 was unanimously adopted.

Complete text of Resolution No. 85-208 will be found in Resolution Book No. 15 at page 361.

CLAIMS - DAVEY TREE COMPANY (SANITATION) - STEVE HODGENS (WATER) - MARIE CANTRELL (WATER) - SOUTHERN BELL (WATER) - CYNTHIA MCFATTER (WATER) - A. R. RIDDLE (SEWER) - JOHN RAINES (SANITATION)

The Acting City Manager presented claims received from Davey Tree Company, Steve Hodgens, Marie Cantrell, Southern Bell, Cynthia McFatter, A. R. Riddle, and John Raines.

Mayor McDevitt referred the claims to the Corporation Counsel for investigation and recommendation.

LAWSUIT - WADE HOWELL VS. CITY OF ASHEVILLE (SEWER BACKED UP)

The Acting City Manager said the City was served with a summons relative to a lawsuit involving Wade Howell vs. City of Asheville (sewer backed up).

Mayor McDevitt referred the summons to the Corporation Counsel for investigation and recommendation.

SCHEDULING PUBLIC HEARING - ZONING ORDINANCE AMENDMENT - RIDGE LAW AMENDMENT - DECEMBER 10, 1985

15. Consideration was given to a motion to schedule a public hearing relative to amending the Zoning Ordinance for Ridge Law Amendments for December 10, 1985.

Mayor McDevitt said at the regular meeting of the Asheville Planning and Zoning Commission held on November 13, 1985, the Commission recommended to Council the adoption of an Ordinance amending Chapter 30 of the Code of Ordinances of the City of Asheville to expand the coverage of the Mountain Ridge Protection Act of 1983 to prohibit tall buildings on all ridges 500 feet above the adacent valley floor.

Councilman Price moved to schedule a public hearing relative to amending the Zoning Ordinance for Ridge Law Amendments for December 10, 1985. This motion was seconded by Councilman Frank and carried unanimously.

APPROVAL OF SIGN PERMIT - 800 FAIRVIEW ROAD - KENTUCKY FRIED CHICKEN

16. Consideration was given to a motion relative to approving a sign permit for an identification sign at 800 Fairview Road.

Verl Emrick, Director of Planning, said Kentucky Fried Chicken has requested a sign permit to erect an identification sign at 800 Fairview Road advertising "Kentucky Fried Chicken." This sign requires approval of City Council pursuant to the Zoning Ordinance in that the sign will be situated closer than 600' of a limited access highway.

Upon inquiry of Councilman Boland, Councilman Price said Alternatives for Asheville will be addressing signs, both small and large billboards.

After discussion, Councilman Bissette moved to delay consideration of the sign permit until November 26, 1985. This motion was seconded by Councilman Price and carried unanimously.

Councilman Bissette requested that the parties involved in requesting the sign permit be notified that this matter will be discussed on November 26, 1985.

Councilman Price also requested that Quality Forward be notified that Council would be taking action relative to a sign permit at 800 Fairview Road.

RESOLUTION NO. 85-207 - RESOLUTION SUPPORTING THE DEPARTMENT OF INTERIOR'S PURCHASE OF PROPERTY ON HEMPHILL KNOB FOR THE HEADQUARTERS OF THE BLUE RIDGE PARKWAY

17. Consideration was given to a resolution supporting the Department of Interior's purchase of property on Hemphill Knob for the Headquarters of the Blue Ridge Parkway.

The Corporation Counsel read the resolution stating that Harry Brunner has appealed two decisions of the Board of Adjustments of the City of Asheville to the Superior Court. He said one of the actions is pending in Superior Court, and the other action has been concluded in Superior Court, but is on appeal to the North Carolina Court of Appeals. He said the City Council has decided, upon recommendation of the Corporation Counsel, to retain outside Counsel in connection with these proceedings. He said Max O. Cogburn has agreed to provide the necessary legal services.

Upon motion of Councilman Boland, seconded by Councilman Frank, Resolution No. 85-210 was unanimously adopted.

Complete text of Resolution No. 85-210 will be found in Resolution Book No. 15 at page 363.

ORDINANCE NO. 1550 - BUDGET ORDINANCE AMENDMENT TO PROVIDE FUNDING FOR COURT JUDGMENT IN WAYNE WARREN MATTER

23. Consideration was given to a budget ordinance amendment to provide funding for a court judgment in the Wayne Warren matter in the amount of $50,778.

Mayor McDevitt read the ordinance.

Vice-Mayor Bratton moved for the adoption of Ordinance No. 1550. This motion was seconded by Councilman Bissette.

On a roll call vote of 6-0, Ordinance No. 1550 passed on first and final reading.

Complete text of Ordinance No. 1550 will be found in Ordinance Book No. 10 at page 329.

Attorney Lawrence Smith, representing Wayne Warren, requested that the funds to be paid to Wayne Warren be paid to him tomorrow on November 20, 1985. He said that the Corporation Counsel had stated that Mr. Warren would receive his check the day following Council's action.

Corporation Counsel Slawter said he did not make such a statement, and the funds would be paid in due course and within a reasonable period of time.

Mayor McDevitt informed Attorney Smith that the City of Asheville would move timely on this issue. The Acting City Manager said the funds would be forwarded to Mr. Warren before the end of the week.

APPROVAL OF SIGN PERMIT FOR SELF-STOWAWAY SIGN ON HAYWOOD ROAD

24. Councilman Price moved to approve the sign permit to be located on Haywood Road for Stowaway Self-Storage with a height limitation of the sign being at 20 feet. This motion was seconded by Councilman Frank and carried unanimously.

AUTHORIZATION TO EXECUTE LETTER OF INDEMNIFICATION - USE OF LEGAL BUILDING AS HEADQUARTERS FOR THE "LIGHT UP YOUR HOLIDAYS" FESTIVAL FOR NOVEMBER 25 - DECEMBER 31, 1985

20. Consideration was given to a motion authorizing the City Manager to sign a Letter of Indemnification with Pack Plaza Associates, Ltd., Partnership, for the use of the Legal Building as headquarters for the "Light Up Your Holidays" festival for November 25 - December 31, 1985.

Councilman Frank moved that the City Manager be authorized to execute a Letter of Indemnification to be given to Pack Plaza Associates, Ltd., Partnership, in order that the City may be able to use the Legal Building as headquarters for the "Light Up Your Holidays" festival for November 25 - December 31, 1985. This motion was seconded by Councilman Bissette and carried unanimously.

RESOLUTION NO. 85-209 - RESOLUTION AUTHORIZING THE BLOCKING OF VEHICULAR TRAFFIC ON PATTON AVENUE FROM BILTMORE AVENUE EAST TO COLLEGE STREET FROM 5:30 P.M. UNTIL 7:30 P.M. ON DECEMBER 1, 5, 12, AND 19, 1985 (FOR "LIGHT UP YOUR HOLIDAYS" FESTIVAL

21. Consideration was given to a resolution authorizing the blocking of vehicular traffic on Patton Avenue from Biltmore Avenue east to College Street from 5:30 p.m. until 7:30 p.m. on December 1, 5, 12, and 19, 1985, for the "Light Up Your Holidays" festival.

The Corporation Counsel read the resolution stating that the "Light Up Your Holidays" festival will be held November 27 - December 31, 1985, in the City of Asheville and is coordinated by the Asheville Parks, Recreation and Public Facilities Department, the Asheville Area Chamber of Commerce, and the Western North Carolina Community Arts Council. He said the festival will be sponsoring four special public events including the premiere on December 1, 1985, and three other celebrations on December 5, 12, and 19 at Pack Square beginning at 6:00 p.m. He said for the safety of the participants, it is advisable to restrict vehicular traffic in the Pack Square area during the times these programs are in progress.

Upon motion of Councilman Price, seconded by Councilman Frank, Resolution No. 85-209 was unanimously adopted.

Complete text of Resolution No. 85-209 will be found in Resolution Book No. 15 at page 362.

RESOLUTION NO. 85-210 - RESOLUTION AUTHORIZING THE MAYOR TO SIGN CONTRACT WITH ATTORNEY MAX O. COGBURN FOR LEGAL SERVICES IN CONNECTION WITH THE LAWSUIT FILED AGAINST THE CITY OF ASHEVILLE BY HARRY BRUMMER

22. Consideration was given to a resolution authorizing the Mayor to sign a contract with Attorney Max O. Cogburn for legal services in connection with the lawsuit filed against the City of Asheville by Harry Brummer.

first bidding, the low bidder had made an error in his bid, and Terry Brothers Construction was second low bidder. He said he tried to talk to Mr. Huff, Director of Water & Sewer Services, stating that the Code of Ethics would provide that the second low bidder receive the award of the bid. He said Mr. Huff was very upset with him for requesting this action. He said there was a lot of misunderstandings in this bid process. Mr. Terry said he was also second low bidder at the second bid opening. He said he would protest the awarding of the contract to the low bidder and hoped that Council would award the contract to Terry Brothers Construction Company due to the fact that this would morally be correct.

Mr. Terry introduced the other contractors in attendance at the meeting, all of which concurred with Mr. Terry's comments.

Gary Meece, with Taylor-Murphy Construction Company, said he also felt that Terry Brothers Construction Company should be awarded the contract because during the first bidding process, Terry Brothers had put in a good faith bid. He said this is the first time that a bid has been processed in this manner. He said if a low bidder forfeits his bond, it is customary to automatically award the bid to the second low bidder. He said the project was readvertised without alterations in the design of the project.

Jesse Jayne, with Supply Specialties, said he felt the bid on the Haw Creek Sewer Line Project was mishandled. He said he felt Terry Brothers Construction Company had been done an injustice. He requested that Council award the bid to Terry Brothers Construction Company, and that Council members give this matter strong consideration prior to awarding the bids on November 26, 1985.

RALPH BISHOP - LOTTERY SALES IN THE CITY OF ASHEVILLE

Ralph Bishop again spoke to members of Council relative to the lottery sales in the City of Asheville.

BARRY OWEN - PROPERTY OWNER DOWNTOWN - COMMENTS RELATIVE TO PROPOSED BUS TERMINAL ON LEXINGTON AVENUE

Barry Owen, property owner in downtown Asheville, spoke in opposition to the proposed bus terminal on Lexington Avenue.

Mr. Owen was informed that the zoning permit for the bus terminal on Lexington Avenue had been revoked.

Mr. Owen said Council should be very careful in the placement of a bus terminal in the downtown area due to the element of people that hang around bus terminals.

Mr. Owen also requested that Council look into the drug trafficking in the area of Biltmore Avenue.

COMMENTS BY JIM CAIRNES - FLEA MARKET ON MONTFORD AVENUE - SIDEWALKS UNDER CONSTRUCTION ON BILTMORE AVENUE - PAVING CURBING ON WILSON ALLEY

25. Jim Cairnes of 209 Cumberland Avenue spoke to members of Council relative to an on-going flea market at 200 Montford Avenue. He said the residents at 200 Montford Avenue sell every day of the week in their yard. He said it was his understanding that the Historic Resources Commission was to look into this situation, but to date, they have not.

Council instructed the Acting City Manager investigate this situation, and report back to Council next week.

Mr. Cairnes also spoke relative to the continued construction of sidewalks on Biltmore Avenue. He said it was his understanding that there was some problems with compaction in the area and lack of funds to complete the project. He said the sidewalk construction work had been stopped.

Mr. Cairnes also spoke relative to the curbing on Wilson Avenue. He said garbage trucks and delivery trucks could not travel the street without running up on the curb.

Mr. Cairnes also spoke relative to gambling and prostitution on Wilson Alley.

City Council instructed the Acting City Manager to investigate the problems mentioned by Mr. Cairnes, and report back to Council next week.

COMMENTS BY COPPER COGGINS - RESOLUTION TO NORTH CAROLINA DAY CARE COMMISSION RELATIVE TO OBJECTIONS TO REINTRODUCTION OF CORPORAL PUNISHMENT INTO DAY CARE CENTERS IN NORTH CAROLINA

26. Copper Coggins spoke to members of Council seeking their support of a resolution urging the North Carolina Day Care Commission to stand firm against the reintroduction of corporal punishment into any day care center in North Carolina in any guise. She requested that Council adopt a resolution at today's meeting so it could be sent to the North Carolina Day Care Center Commission for action on Wednesday.

It was the consensus of the members of Council that resolutions of this nature should be placed on the agenda prior to the meeting date in order that consideration could be given to the resolution prior to the meeting. It was noted that members of Council did not know enough about the requested action to commit the City at this time. It was felt that to take action at today's meeting would be setting a very bad precedent in matters that need Council's careful consideration.

COMMENTS RELATIVE TO BIDS ON 12" SEWER LINE FOR HAW CREEK

27. Garland Terry, with Terry Brothers Construction Company, appeared before Council, along with other contractors and suppliers in the area to protest the rebidding of the 12" Sewer Line Project in Haw Creek. Mr. Terry said he felt this was a rush job, and his company was second low bidder on both bids. He said that his company had been treated unfairly. He said at the

Tuesday - November 26, 1985 - 4:00 p.m.

Regular Meeting

Present: Mayor Larry McDevitt, Presiding; Vice-Mayor Wilhelmina Bratton; Councilmen Mary Lloyd Frank, Norma T. Price, Gordon Myers, Walter R. Boland, and Louis Bissette; Corporation Counsel William F. Slawter; Acting City Manager William F. Wolcott, Jr., and Deputy City Clerk Carol Hensley.

Absent: None

INVOCATION

The invocation was given by Mayor Larry McDevitt.

APPROVAL OF THE MINUTES - NOVEMBER 19, 1985 MEETING

1. Approval of the minutes of November 19, 1985 meeting.

Mayor McDevitt announced the approval of the minutes as submitted.

DESIGNATION OF HISTORIC PROPERTIES/JOINT MEETING/ASHEVILLE-BUNCOMBE COUNTY HISTORIC RESOURCES COMMISSION

Mayor McDevitt opened a joint meeting with The Historic Resources Commission of Asheville and Buncombe County and the Asheville City Council to consider the designation of buildings and properties as historic property.

PUBLIC HEARING - DESIGNATION OF "THE GATE HOUSE" AT 265 CHARLOTTE STREET - HISTORIC PROPERTY

ORDINANCE NO. 1551 - AN ORDINANCE DESIGNATING A BUILDING AND PROPERTY KNOWN AS "THE GATE HOUSE" AT 265 CHARLOTTE STREET IN ASHEVILLE, NORTH CAROLINA, CURRENTLY OWNED BY MAPLE COVE, INC., AS HISTORIC PROPERTY

2. A public hearing was held relative to the adoption of an ordinance designating "The Gate House" at 265 Charlotte Street as historic property.

Mayor McDevitt said the structure known as "The Gate House" was completed in 1899 as the entrance to the grounds of the Manor Inn, and remains an impressive Lodge of shingle, stucco, and timber with a rock tower. It also serves as a reminder of the architecture of early resort developments in Western North Carolina. The Asheville-Buncombe County Historic Resources Commission has demonstrated the historic significance of the building, and the Division of Archives and History, North Carolina Department of Cultural Resources has endorsed the findings of the Commission.

Mayor McDevitt opened the public hearing at 4:12 p.m.

The Deputy City Clerk presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

EXECUTIVE SESSION - ADJOURNMENT

Upon motion of Councilman Price, seconded by Councilman Frank, the meeting adjourned to Executive Session at 7:15 p.m.

MAYOR

CITY CLERK

Councilman Frank moved for the adoption of Ordinance No. 1552. This motion was seconded by Councilman Boland.

On a roll call vote of 7-0, Ordinance No. 1552 passed on first reading.

PUBLIC HEARING - DESIGNATION OF "THE MANOR INN" AT 265 CHARLOTTE STREET AS HISTORIC PROPERTY

ORDINANCE NO. 1553 - AN ORDINANCE DESIGNATING A BUILDING AND PROPERTY KNOWN AS "THE MANOR INN" AT 265 CHARLOTTE STREET IN ASHEVILLE, NORTH CAROLINA, CURRENTLY OWNED BY TRANSCO FINANCIAL GROUP, LTD., AS HISTORIC PROPERTY

4. A public hearing was held relative to adoption of an ordinance designating "The Manor Inn" at 265 Charlotte Street as historic property.

Mayor McDevitrt said "The Manor" was completed in 1899 as an "English Country Inn in America," and is a rare surviving example of the picturesque resort development so important to the history of the North Carolina mountains. The Asheville-Buncombe County Historic Resources Commission has demonstrated the historic significance of the building, and the Division of Archives and History of North Carolina Department of Cultural Resources has endorsed the findings of the Commission.

Mayor McDevitt opened the public hearing at 4:21 p.m.

The Deputy City Clerk presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Mr. Coleman, with the Asheville-Buncombe County Historic Resources Commission, said The Manor Inn is the centerpiece of the neighborhood, and it is important to keep its historic character.

Mr. Bill Thomas, representing Matthew Ellman, said foreclosure proceedings have been instituted for the property known as The Manor at 265 Charlotte Street, and the proceedings should be concluded by Friday, December 20, 1985, if not before. He said Mr. Ellman is represented locally by Attorney Jerry Crow. He said Mr. Ellman is interested in protecting his exposure of the building. He said after the foreclosure proceedings are complete, title to the The Manor would be in Mr. Ellman's name. He said Mr. Ellman has mixed feelings about the historic designation but would be conferring with local officials relative to this designation. He said Mr. Ellman would take no position, at the present time, relative to the historic designation; however, he is interested in how many restrictions would be imposed upon the property.

Councilman Price asked Mr. Thomas to confer with the Planning Director relative to the historic designation. She said the historic property designation allows utilization of the City's "historic overlay" zoning by allowing a use for it that is not normally allowable. She said The Manor Inn is located in an R2 zone, and technically, cannot be used as an inn in that zone. However, the historic overlay zone would allow property to be used for the purpose for which it was originally built, regardless of the zone.

Mr. Coleman, with the Historic Resources Commission, said this designation was extremely important to the City of Asheville, and the neighborhood is dependent upon keeping the character of the buildings.

R. L. Bailey, owner of the Gate House, said he did not fully understand the restrictions imposed upon the property when it is designated historic property. He said the property is currently on the National Register as historic property. He said he could not speak in favor or in opposition to the ordinance at this time. However, he said he would review the restrictions and voice his opinion before the third reading of the ordinance.

Mayor McDevitt closed the public hearing at 4:15 p.m.

Mayor McDevitt said members of Council were furnished copies of the ordinance, and it would not be read in its entirety.

Councilman Frank moved for the adoption of Ordinance No. 1551. This motion was seconded by Councilman Price.

On a roll call vote of 7-0, Ordinance No. 1551 passed on first reading.

PUBLIC HEARING - DESIGNATING "FIRST BLOCK OF NORTH MARKET AND LANGREN ALLEY" AS HISTORIC PROPERTY

ORDINANCE NO. 1552 - AN ORDINANCE DESIGNATING A STREET KNOWN AS "NORTH MARKET STREET" AND AN ALLEY KNOWN AS "LANGREN ALLEY" IN ASHEVILLE, NORTH CAROLINA, AND CURRENTLY OWNED BY THE CITY OF ASHEVILLE, AS HISTORIC PROPERTY

3. A public hearing was held relative to the adoption of an ordinance designating "a street known as North Market Street" and "an alley known as Langren Alley" as historic property.

Mayor McDevitt said North Market Street is the last street in the City of Asheville having brick pavement, and Langren Alley is the last street in the City of Asheville having Belgian block pavement. These pavements figured prominently in the development of Asheville's thoroughfares. The Asheville-Buncombe County Historic Resources Commission of has demonstrated the historic significance of the streets, and the Division of Archives and History of North Carolina Department of Cultural Resources has endorsed the findings of the Commission.

Mayor McDevitt opened the public hearing at 4:16 p.m.

The Deputy City Clerk presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Mr. Coleman, with the Asheville-Buncombe County Historic Resources Commission, said the owners of the street, which would be the City of Asheville, would be responsible for keeping and maintaining the streets in their present condition.

Mayor McDevitt closed the public hearing at 4:20 p.m.

Mayor McDevitt said members of Council were furnished copies of the ordinance, and it would not be read in its entirety.

ADJOURNMENT - JOINT MEETING - ASHEVILLE CITY COUNCIL/ASHEVILLE-BUNCOMBE COUNTY HISTORIC RESOURCES COMMISSION

Mayor McDevitt adjourned the joint meeting of the Asheville-Buncombe County Historic Resources Commission and continued with the regular meeting of the Asheville City Council.

PUBLIC HEARING - DESIGNATING ADDITIONAL HOLIDAY FOR CITY EMPLOYEES - MEMORIAL DAY

RESOLUTION NO. 85-211 - RESOLUTION APPROVING THE REVISION OF RULE 17(J) OF THE CIVIL SERVICE RULES AND REGULATIONS

6. A public hearing was held relative to designating an additional holiday for City employees - Memorial Day.

Mayor McDevitt said during a recent classification and compensation study conducted by Cresap, McCormick, and Paget, it was recommended that an additional holiday be designated for City employees which will bring the City up to the average number of holidays offered by surveyed organizations. A public hearing is required pursuant to the Civil Service Law.

Mayor McDevitt opened the public hearing at 4:37 p.m.

The Deputy City Clerk presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

There being no comments relative to the designation of Memorial Day as a holiday for City employees, Mayor McDevitt closed the public hearing at 4:39 p.m.

Mayor McDevitt said members of Council were previously furnished copies of the resolution, and it would not be read in its entirety.

Upon motion of Councilman Frank, seconded by Councilman Myers, Resolution No. 85-211 was unanimously adopted.

Complete text of Resolution No. 85-211 will be found in Resolution Book No. 15 at page 365.

ORDINANCE NO. 1555 - BUDGET ORDINANCE AMENDMENT FOR THE REPLACEMENT OF AN ANIMAL CONTROL TRUCK

7. Consideration was given a budget ordinance amendment for the replacement of an animal control truck.

Mayor McDevitt said this action will fund replacement of an animal control truck damaged in an accident. The truck was a 1978 model and not worth repairs. Funding in the amount of $9,110 will be provided from Revenue Sharing contingency.

Mayor McDevitt said members of Council were furnished copies of the ordinance, and it would not be read in its entirety.

Councilman Bissette moved for the adoption of Ordinance No. 1555. This motion was seconded by Councilman Boland.

Mayor McDevitt closed the public hearing at 4:28 p.m.

Mayor McDevitt said members of Council were previously furnished copies of the ordinance, and it would not be read in its entirety.

Councilman Price moved for the adoption of Ordinance No. 1553. This motion was seconded by Councilman Bissette.

On a roll call vote of 7-0, Ordinance No. 1553 passed on first reading.

PUBLIC HEARING - DESIGNATION OF "THE GROVE ARCADE BUILDING" ON BATTLE SQUARE AS HISTORIC PROPERTY

ORDINANCE NO. 1554 - AN ORDINANCE DESIGNATING A BUILDING AND PROPERTY KNOWN AS "THE GROVE ARCADE ON BATTLE SQUARE IN ASHEVILLE, NORTH CAROLINA, CURRENTLY OWNED BY THE UNITED STATES OF AMERICA, AS HISTORIC PROPERTY

5. A public hearing was held relative to the adoption of an ordinance designating "The Grove Arcade Building" on Battle Square as historic property.

Mayor McDevitt said "The Grove Arcade" was designed by prominent architect Charles N. Parker and built for famous developer and entrepreneur Edwin W. Grove, known as the "Father of Twentieth Century in Asheville." "The Grove Arcade" is a grand and flamboyant building constructed of fine ornamental terra cotta and stone, and is finished inside and out with Tudoresque and medieval ornamentation. This building is also a rare example of an interior shopping arcade with covered pedestrian thoroughfares. The Asheville-Buncombe County Historic Resources Commission has demonstrated the historic significance of the building, and the Division of Archives and History of North Carolina Department of Cultural Resources has endorsed the findings of the Commission.

Mr. Coleman, with the Asheville-Buncombe Historic Resources Commission, said he had received a letter from V. C. Motley, with the General Service Administration in Atlanta, stating they have no objections to the historic designation.

A discussion was held, instituted by Councilman Price, relative to restricting the interior of the building.

Mayor McDevitt closed the public hearing at 4:34 p.m.

Mayor McDevitt said members of Council were furnished copies of the ordinance, and it would not be read in its entirety.

Councilman Boland moved for the adoption of Ordinance No. 1554. This motion was seconded by Councilman Price.

On a roll call vote of 7-0, Ordinance No. 1554 passed on first reading.

Mayor McDevitt thanked members of the Asheville-Buncombe County Historic Resources Commission for their time and efforts on the Asheville-Buncombe County Historic Resources Commission. He also thanked Carolyn Humphries, staff liaison with the Historic Resources Commission, for her time and efforts.

ORDINANCE NO. 1548 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED - PROPERTY LOCATED ON CLAIRMONT AVENUE (MR. TIM WILSON PETITION)

10. Consideration was given to the second reading of Ordinance No. 1548, an ordinance amending Ordinance No. 322, known as "An ordinance providing for the zoning of the City of Asheville," as amended - property located on Clairmont Avenue (Mr. Tim Wilson Petition).

Mayor McDevitt said the Asheville Planning and Zoning Commission at a meeting held October 2, 1985, considered the petition of Mr. Tim Wilson that Ward 9, Sheet 6, Lot 35, be rezoned from R-3 Residential District to CH Commercial Highway District. The property is located at #4 Clairmont Avenue. After review and discussion, the Commission voted to recommend to City Council that Lot 35 and 34, Sheet 6, Ward 9, be rezoned from R-3 Residential District to CH Commercial Highway District. This ordinance passed on first reading at the November 19, 1985, meeting with an amendment to leave a 10' buffer on Lot 35 to remain zoned R-3 Residential District.

Mayor McDevitt requested that he be excused from voting on the ordinance relative to rezoning property on Clairmont Avenue since his law firm represents the proposed purchaser of the property.

Councilman Price moved to excuse Mayor McDevitt from voting on Ordinance No. 1548. This motion was seconded by Councilman Myers and carried unanimously.

Mayor McDevitt noted that the ordinance had been amended prior to first reading to read as follows: "Ward 9, Sheet 6, all of Lot 34, and all of Lot 35 except a 10' strip along Clairmont Avenue on the southern boundary of Lot 35, which shall remain zoned R-3 Residential District.

Mayor McDevitt said this ordinance was previously read on first reading and would not be reread in its entirety unless there was a specific request to do so.

On a roll call vote of 6-0, Ordinance No. 1548 passed on second reading.

Councilman Boland moved to suspend the rules and proceed to the third and final reading of Ordinance No. 1548. This motion was seconded by Councilman Frank and carried on a voice vote of 5-1, with Councilman Bissette voting "No."

On a roll call vote of 6-0, Ordinance No. 1548 passed on third and final reading.

Complete text of Ordinance No. 1548 will be found in Ordinance Book No. 10 at page 325 and 326.

On a roll call vote of 7-0, Ordinance No. 1555 passed on first and final reading.

Complete text of Ordinance No. 1555 will be found in Ordinance Book No. 10 at page 339.

ORDINANCE NO. 1556 - BUDGET ORDINANCE AMENDMENT FOR LOT CLEARING PROGRAM

8. Consideration was given to a budget ordinance amendment for a lot clearing program.

Mayor McDevitt said this amendment will provide funds for a vacant lot clearing program. Funding for equipment of $17,500 will be provided from the General Revenue Sharing Contingency Fund which will leave a balance of $143,209. Funding for operating costs of $32,500 will be provided from General Fund Contingency which will leave a balance of $261,684.

Mayor McDevitt said members of Council were furnished copies of the ordinance, and it would not be read in its entirety.

Councilman Frank moved for the adoption of Ordinance No. 1556. This motion was seconded by Councilman Boland.

On a roll call vote of 7-0, Ordinance No. 1556 passed on first and final reading.

Complete text of Ordinance No. 1556 will be found in Ordinance Book No. 10 at page 340.

ORDINANCE NO. 1546 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED - PROPERTY LOCATED ON CRAVEN STREET (MR. LAWRENCE LYNCH PETITION)

9. Consideration was given to the third reading of Ordinance No. 1546, an ordinance amending Ordinance No. 322, known as "An ordinance providing for the zoning of the City of Asheville," as amended - property located on Craven Street (Mr. Lawrence Lynch petition).

Mayor McDevitt said the Asheville Planning and Zoning Commission, at a meeting held September 11, 1985, considered the petition of Mr. Lawrence Lynch that Ward 6, Sheet 1, Lot 91, be rezoned from R-3 Residential District to CS Commercial Service District. The property is located at Georgia Avenue and Craven Street. After review and discussion, the Commission voted to recommend to City Council that a portion of Lot 91, Sheet 1, Ward 6, be rezoned from R-3 Residential District to CS Commercial Service District. This ordinance passed on first reading on October 29, and on second reading on November 19, 1985.

Mayor McDevitt said this ordinance was previously read on first and second reading and would not be reread in its entirety unless there was a specific request to do so.

On a roll call vote of 7-0, Ordinance No. 1546 passed on third and final reading.

Complete text of Ordinance No. 1546 will be found in Ordinance Book No. 10 at page 322 and 323.

ORDINANCE NO. 1557 - BUDGET ORDINANCE AMENDMENT TO APPROPRIATE FUNDS FOR A GRANT TO BE AWARDED TO THE YMI CULTURAL CENTER, INC.

13. Consideration was given to a budget ordinance amendment to appropriate funds for a grant to be awarded to the YMI Cultural Center, Inc.

Mayor McDevitt said this budget amendment will appropriate funds to be budgeted for a grant to be awarded to the YMI Cultural Center, Inc., a non-profit organization. Revenue in the amount of $50,000 is availble from funds received through UDAG Loan repayments.

Marvin Vierra, with the Community Development Department, said he had checked with the U. S. Housing and Urban Development, and was informed that this was an eligible use for Community Development funds.

Vice-Mayor Bratton moved for the adoption of Ordinance No. 1557. This motion was seconded by Councilman Bissette.

On a roll call vote of 7-0, Ordinance No. 1557 passed on first and final reading.

Complete text of Ordinance No. 1557 will be found in Ordinance Book No. 10 at page 341.

RESOLUTION NO. 85-212 - RESOLUTION AUTHORIZING A $50,000 GRANT OF COMMUNITY DEVELOPMENT FUNDS TO THE YMI CULTURAL CENTER

14. Consideration was given to a resolution authorizing a $50,000 grant of Community Development funds to the YMI Cultural Center.

Mayor McDevitt said pursuant to numerous prior discussions with City Council, the YMI Cultural Center has requested a $50,000 grant to assist in the completion of its building renovation project which will cost $50,000. Funds are available for this purpose in the UDAG Loan repayment budget.

Vice-Mayor Bratton moved for the adoption of Resolution No. 85-212. This motion was seconded by Councilman Price and carried unanimously.

Complete text of Resolution No. 85-212 will be found in Resolution Book No. 15 at page 336.

Wanda Henry-Coleman expressed appreciation to members of Council for the grant to YMI Cultural Center.

RESOLUTION NO. 85-213 - RESOLUTION AUTHORIZING THE BARRICADING OF BOSTON WAY AND SWAN STREET ON NOVEMBER 29, 1985

15. Consideration was given to a resolution authorizing the barricading of Boston Way and Swan Street on November 29, 1985.

Mayor McDevitt said Biltmore Village Association is having a festival event called "Lighting of Biltmore Village" on November 29, 1985. In order to accommodate the number of people attending the festival, the Association requests the barricading of Boston Way and Swan Street from 5:00 p.m. until 9:00 p.m. The merchants and property owners on Boston Way, Swan Street, All

ORDINANCE NO. 1549 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED - PROPERTY LOCATED IN REDWOOD FOREST AND SHAWNEE TRAIL AREA (MR. TED MORRIS, AGENT)

11. Consideration was given to the second reading of Ordinance No. 1549, an ordinance amending Ordinance No. 322, known as "An ordinance providing for the zoning of the City of Asheville," as amended - property located in Redwood Forest and Shawnee Trail area (Mr. Ted Morris, Agent).

Mayor McDevitt said the Asheville Planning and Zoning Commission, at a meeting held October 2, 1985, reviewed and approved the petition of the residents of the Redwood Forest Subdivision and Shawnee trail to rezone their property from R-2 Residential District to R-1 Residential District. This ordinance passed on first reading at the November 19, 1985, meeting.

Mayor McDevitt said this ordinance was previously read on first reading and would not be reread in its entirety unless there was a specific request to do so.

Jane Clark, of Redwood Forest, spoke in support of the rezoning ordinance.

On a roll call vote of 7-0, Ordinance No. 1549 passed on second reading.

ACTION RELATIVE TO PHASE THREE OF THE HAZELWOOD SUBDIVISION - NORTH LOUISIANA AVENUE

12. Consideration was given to a motion relative to Phase Three of the Hazelwood Subdivision to be located on North Louisiana Avenue.

Mayor McDevitt said the Asheville Planning and Zoning Commission at a meeting held October 2, 1985 approved the final plat of Phase Three of the Hazelwood Subdivision to be located on North Louisiana Avenue. This plat was prepared by S.V. Griffith, R.L.S. for Frank McGahren and Walter Weiss, Developers, and submitted in accordance with Ordinance No. 424, as amended. The Commission approved the preliminary plat subject to compliance with the Erosion Control Ordinance. At the November 19, 1985 meeting a public hearing was held relative to this matter and action was delayed until November 26, 1985.

Verl Emrick, Director of Planning, said Walter Weiss, Developer, had installed a fire hydrant on Brickyard Road which would be within 120' of Phase Three of the Hazelwood Subdivision. He said the Fire Marshall had said this fire hydrant would be adequate protection for this portion of the subdivision.

Councilman Boland moved to approve Phase Three of the Hazelwood Subdivision to be located on North Louisiana Avenue. This motion was seconded by Councilman Price and carried unanimously.

Members of Council requested that the City staff review the possibility of including fire code requirements and other applicable codes to subdivisions and group developments in the City's zoning jurisdiction.

have agreed to the participation of each with regard to the replacement of the sewer line. This resolution authorizes the Mayor to execute an agreement for this project.

Mayor McDevitt said members of Council were previously furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Frank, seconded by Councilman Bissette, Resolution No. 85-215 was unanimously adopted.

Complete text of Resolution No. 85-215 will be found in Resolution Book No. 15 at page 339.

RESOLUTION NO. 85-216 - RESOLUTION AUTHORIZING THE INTERIM CITY MANAGER TO EXECUTE A RIGHT-OF-WAY ENCROACHMENT AGREEMENT WITH OWNER OF WICK & GREENE JEWELERS, LOCATED ON BOSTON WAY

18. Consideration was given to a resolution authorizing the Interim City Manager to execute a Right-Of-Way Encroachment Agreement with owner of Wick & Greene Jewelers, located on Boston Way.

Mayor McDevitt said Mr. Paul P. Greene, owner of Wick & Greene Jewelers, has requested that the City enter into an encroachment agreement so that an original antique street clock of the 1920 period may be installed upon the right-of-way between the sidewalk and curb of Boston Way. This clock is to be installed, kept up and, if necessary for any purpose, removed by the owner of Wick & Greene Jewelers at his expense.

Mayor McDevitt said members of Council were previously furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Boland, seconded by Councilman Price, Resolution No. 85-216 was unanimously adopted.

Complete text of Resolution No. 85-216 will be found in Resolution Book No. 15 at page 340.

RESOLUTION NO. 85-217 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE ON BEHALF OF THE CITY OF ASHEVILLE A QUITCLAIM DEED CONVEYING ANY INTEREST THE CITY MAY HAVE IN A STRIP OF LAND NEAR THE NORTHWESTERN BANK BUILDING PROPERTY

19. Consideration was given to a resolution authorizing the Mayor to execute on behalf of the City of Asheville a Quitclaim Deed conveying any interest the City may have in a strip of land near the Northwestern Bank Building property.

Mayor McDevitt said the Northwestern Bank Building property located in the block bounded on the north by College Street, on the east by Broadway, on the south by Patton Avenue and on the west by North Lexington Avenue has been recently purchased. The survey of this property and subsequent title search indicated that the City of Asheville may have some interest in a strip of land adjacent to the building line. This strip of land is not within the sidewalk or street rights-of-way and there are no utility lines or easements crossing this strip of land. This resolution will authorize the Mayor to execute a Quitclaim Deed releasing any interest of the City to Asheville Building Associates, purchaser of the property.

Souls Crescent, and Biltmore Plaza support the festival and have indicated their concurrence for the temporary barricading of these streets by signing a petition to the City Council.

Mayor McDevitt said members of Council were previously furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Price, seconded by Councilman Frank, Resolution No. 85-213 was unanimously adopted.

Complete text of Resolution No. 85-213 will be found in Resolution Book No. 15 at page 337.

RESOLUTION NO. 85-214 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A RIGHT-OF-WAY ENCROACHMENT AGREEMENT WITH THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION FOR THE INSTALLATION OF AN EIGHT-INCH SEWER LINE ON SWEETEN CREEK ROAD (U.S. 25-A)/BUSBEE VIEW ROAD

16. Consideration was given to a resolution authorizing the Mayor to execute a right-of-way encroachment agreement with the North Carolina Department of Transportation for the installation of an eight-inch sewer line on Sweeten Creek Road (U.S. 25-A)/Busbee View Road.

Mayor McDevitt said the City of Asheville desires to encroach on the right-of-way of the public road designated as Sweeten Creek Road (U.S. 25-A). The North Carolina Department of Transportation is willing to permit the encroachment within the limits of its right-of-way. This resolution will authorize the Mayor to execute the agreement for this sewer line.

Mayor McDevitt said members of Council were previously furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Myers, seconded by Councilman Boland, Resolution No. 85-214 was unanimously adopted.

Complete text of Resolution No. 85-214 will be found in Resolution Book No. 15 at page 338.

RESOLUTION NO. 85-215 - RESOLUTION AUTHORIZING THE MAYOR ON BEHALF OF THE CITY OF ASHEVILLE TO EXECUTE AN AGREEMENT BY AND AMONG THE TOWN OF BILTMORE FOREST, THE CITY OF ASHEVILLE, THE COUNTY OF BUNCOMBE, BILTMORE FOREST COMPANY, AND OXFORD DEVELOPMENT ENTERPRISES, INC., FOR THE FOUR-MILE CREEK SEWER LINE PROJECT

17. Consideration was given to a resolution authorizing the Mayor on behalf of the City of Asheville to execute an agreement by and among the Town of Biltmore Forest, the City of Asheville, the County of Buncombe, Biltmore Forest Company, and Oxford Development Enterprises, Inc., for the Four-Mile Creek sewer line project.

Mayor McDevitt said the Town of Biltmore Forest, the City of Asheville, the County of Buncombe, Biltmore Forest Company, and Oxford Development Enterprises, Inc., have discussed participation in the replacement of a section of a sanitary sewer line running through the Town of Biltmore Forest which has been referred to as the Four-Mile Creek Sewer Improvement Project. All parties

Councilman Bissette said he was not satisfied with the manner in which this bidding process was handled. He said, however, he feels the Council members are charged with awarding the bid to the lowest responsible bidder.

Councilman Boland reiterated comments of Councilman Bissette, stating that the Council, given the evidence involved, does not have any alternative except to award the bid to the lowest responsible bidder.

Jesse Jayne spoke to members of Council on behalf of Terry Brothers Construction Company. He said this particular incident of bidding for the Haw Creek Area Sewerage Contract was handled wrong. He said during the first bidding process, a legal, closed, and bonded bid was submitted by Terry Brothers Construction Company, and he could not see how Council could justify re-bidding the project. He said the low bidder, during the second bidding, really had no right to bid because all bidding figures had been released. He said he felt the City of Asheville has an obligation to the local contractors to treat them fairly. He requested that Council reject all of the bids submitted during the second bidding process, and award the bid to the low bidder during the first bidding process, Terry Brothers Construction Company. He asked members of Council to vote their own personal convictions on this matter.

Vice-Mayor Bratton indicated that she felt unconfortable with re-bidding this project and stated members of Council should have awarded the bid during the first bidding process.

On a voice vote of 4-3, Councilman Bissette's motion carried with Mayor McDevitt, Vice-Mayor Bratton and Councilman Myers voting "no".

Complete text of Resolution No. 85-219 will be found in Resolution Book No. 16 at page 344.

SCHEDULING PUBLIC HEARING - REDEVELOPMENT PLAN AMENDMENT - WOODBERRY APARTMENTS - DECEMBER 17, 1985

22. Consideration was given to a motion scheduling a public hearing relative to a redevelopment plan amendment for the Woodberry Apartments for December 17, 1985.

Mayor McDevitt said this amendment will allow the Housing Authority to act in its capacity as a redevelopment commission to issue redevelopment bonds for the construction of multi-family housing in the East End Community.

Councilman Price moved to schedule a public hearing relative to a redevelopment plan amendment for the Woodberry Apartments for December 17, 1985. This motion was seconded by Councilman Boland and carried unanimously.

SIGN PERMIT - IDENTIFICATION SIGN - 800 FAIRVIEW ROAD - KENTUCKY FRIED CHICKEN

23. Mayor McDevitt noted that action relative to the sign permit for an identification sign at 800 Fairview Road would be postponed until the December 10, 1985, City Council meeting.

Upon motion of Councilman Price, seconded by Councilman Frank, Resolution No. 85-217 was unanimously adopted.

Complete text of Resolution No. 85-217 will be found in Resolution Book No. 15 at page 341.

RESOLUTION NO. 85-218 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE ON BEHALF OF THE CITY OF ASHEVILLE A RATIFICATION OF ACCEPTANCE OF PERPETUAL CONSERVATION FACADE EASEMENT FOR THE PACK PLAZA REDEVELOPMENT PROJECT

20. Consideration was given to a resolution authorizing the Mayor to execute on behalf of the City of Asheville a Ratification of Acceptance of Perpetual Conservation Facade Easement for the Pack Plaza Redevelopment Project.

Mayor McDevitt said this resolution ratifies and confirms the City's acceptance of the facade easement described in the Ratification of Acceptance of Perpetual Conservation Facade Easements and the Perpetual Conservation Facade Easement Agreement and authorizes the Mayor to execute said documents on behalf of the City of Asheville.

Upon motion of Councilman Price, seconded by Councilman Frank, Resolution No. 85-218 was unanimously adopted.

Complete text of Resolution No. 85-218 will be found in Resolution Book No. 15 at page 342 and 343.

RESOLUTION NO. 85-219 - RESOLUTION AUTHORIZING THE MAYOR TO SIGN A CONTRACT ON BEHALF OF THE CITY OF ASHEVILLE WITH COOPER CONSTRUCTION COMPANY, FOR THE PROJECT KNOWN AS HAW CREEK AREA SEWERAGE FACILITIES CONTRACT NUMBER E-020/W-005.85

21. Consideration was given to a resolution authorizing the Mayor to sign a contract on behalf of the City of Asheville with Cooper Construction Company for the project known as Haw Creek Area Sewerage Facilities Contract Number E-020/W-005.85.

Mayor McDevitt said bids were solicited for the project known as the Haw Creek Area Sewerage Facilities project. Cooper Construction Company, Inc. of Hendersonville is the lowest responsible bidder in the amount of $197,618.60. The project includes installation of approximately 5460 linear feet of 15" diameter sewer pipe, 23 manholes and associated appurtenances. Installation and materials will conform to plans and specifications issued by the City.

Mayor McDevott said members of Council were previously furnished copies of the resolution and it would not be read in its entirety.

Councilman Bissette moved for the adoption of Resolution No. 85-219. This motion was seconded by Councilman Frank.

ADJOURNMENT

Upon motion of Councilman Price, seconded by Councilman Frank, the meeting adjourned at 5:30 p.m.

Ray McDevitt

MAYOR

CITY CLERK

RESOLUTION NO. 85-220 - RESOLUTION REAPPOINTING MEMBER TO THE CITY OF ASHEVILLE BOARD OF ALCONOLIC CONTROL (MRS. CELESTE L. LOFTIN)

24. Consideration was given to a resolution reappointing Mrs. Celeste L. Loftin as a member of the City of Asheville Board of Alconolic Control.

Mayor McDevitt read the resolution.

Upon motion of Councilman Frank, seconded by Councilman Boland, Resolution No. 85-220 was unanimously adopted.

Complete text of Resolution No. 85-220 will be found in Resolution Book No. 15 at page 345.

RESOLUTION NO. 85-221 - RESOLUTION APPOINTING MEMBER TO THE RECREATION BOARD FOR ASHEVILLE (MR. CHARLES BULLMAN)

25. Consideration was given to a resolution appointing Mr. Charles Bullman as a member of the Recreation Board for Asheville.

Mayor McDevitt read the resolution.

Upon motion of Councilman Bissette, seconded by Councilman Price, Resolution No. 85-221 was unanimously adopted.

Complete text of Resolution No. 85-221 will be found in Resolution Book No. 15 at page 346.

CLAIMS - GRACE BALLEW (CIVIC CENTER) - EVELYN GIEZENTANNER (TRAFFIC ENGINEERING)

26. The Acting City Manager presented claims received from Grace Ballew and Evelyn Giezentanner.

Mayor McDevitt referred the claims to the Corporation Counsel for investigation and recommendation.

ANNOUNCEMENT OF ACTION RELATIVE TO BUNCOMBE COUNTY SEWER CONSOLIDATION - STATEMENT OF PRINCIPLES

27. Mayor McDevitt announced that during the Executive Session of Asheville City Council on November 19, 1985, he was authorized to execute a Buncombe County Sewer Consolidation Agreement outlining a Statement of Principles. He said the agreement has been signed by the City of Asheville, the County of Buncombe, and the Metropolitan Sewerage District.

Mayor McDevitt instructed that a copy of the Buncombe County Sewer Consolidation Agreement be included as a part of the minutes.

A copy of the agreement is attached as part of the minutes.

COMMENTS BY MAYOR MCDEVITT

28. Mayor McDevitt told members of Council it had been a pleasure working with the members of the Asheville City Council during the last two years in his capacity as Mayor.

various collector sewer systems within the County and made the following findings and recommendations:

(a) That many of the collector lines are in a state of bad repair with broken or defective pipes and poor connections;

(b) That the condition of the collector systems results in the leaking of raw sewage from the system and the introduction of large quantities of rain and ground water into the sewer lines;

(c) That from time to time the inflow and infiltration of rain and ground water into the collector sewer systems produces more wastewater than can be conveyed by the the MSD's interceptor sewers or treated at the MSD's wastewater treatment plant thus causing the discharge of untreated wastewater directly into the French Broad River, the Swannanoa River, and numerous creeks within the County;

(d) That the discharge of untreated wastewater and leaking of raw sewage poses a potentially serious threat to the public health and future economic growth in Buncombe County;

(e) That the most effective solution to the aging and deteriorating collector sewer systems and the infiltration and inflow of rain and ground water into the systems and the leaking of raw sewage from the systems would be for MSD to assume the rsponsibility for the maintenance and repair of such systems and to rehabilitate those collector sewer systems found to need rehabilitation;

(f) That the MSD has a significant interest in having control over the collector sewer systems because it is ultimately responsible for treating sewage generated and transported through those sytems;

BUNCOMBE COUNTY SEWER CONSOLIDATION

This Statement of Principles outlines the broad area of understanding reached among the County of Buncombe (the County), the City of Asheville (the City), and the Metropolitan Sewerage District of Buncombe County (the MSD) concerning the future maintenance, repair, and rehabilitation of the collector sewer systems located in Buncombe County.

BACKGROUND

The collector sewer systems throughout Buncombe County are currently maintained by at least seven different government units. Large parts of these systems are over 60 years old. These sytems need constant maintenance and repair and many segments of the sewer lines need reconstructing, rebuilding, and rehabilitating (rehabilitation).

The Metropolitan Sewerage District of Buncombe County (MSD) was created in 1962 and operates a wastewater treatment facility which treats sewage generated throughout the County and discharged into the various collector sewer systems. The MSD has also constructed and operates several large interceptor sewer lines which receive sewage collected by the various collector sewer systems.

The Buncombe County Collector System Management Task Force (Task Force) comprised of the Land of the Sky Regional Council, the MSD, and all of the government units in Buncombe County which generate sewage and which maintain collector sewer systems, made studies, including an extensive Sewer System Evaluation Survey Report dated April, 1982, of all of the

2660

2. The County, the City, and the MSD are committed to working out an agreement by which the collector sewer systems presently owned by the County and the City would be transferred to the MSD for all future maintenance, repair, and rehabilitation. The parties acknowledge that such an agreement ought to include all of the government units in the County which operate collector sewer systems because it would be most difficult for any plan of Sewer Consolidation to succeed unless all of the collector sewer systems in the County were part of a consolidated system.

3. On a date to be established in 1986 the various government units in the County will transfer to the MSD their collector sewer systems, including all lines, pipes, and rights of way. The MSD will thereafter assume the full responsibility of maintenance, repair, and rehabilitation of those systems.

4. The parties will strive for a transfer of the collector sewer systems on July 1, 1986, but such transfer shall occur in no event later than December 31, 1986.

5. As to all participating government units, the MSD will institute a separate sewer use charge based upon billable flow wastewaster with uniform rates and with the revenue derived from this charge to be applied toward the maintenance, repair, and rehabilitation of the collector sewer systems. The MSD will develop and institute a pay-as-you-go or other financing plan to provide the necessary funding for the maintenance, repair, and rehabilitation of the collector sewer systems in order that such rehabilitation can be accomplished within a ten year period.

(g) That the MSD, because of its experience and expertise in constructing and maintaining interceptor sewer lines, is a logical entity to have the responsibility for rehabilitating and maintaining the collector sewer lines in the County.

The City of Asheville, the County of Buncombe, the MSD, and various government units in the County have been working for a considerable period of time in an effort to develop a satisfactory system of Sewer Consolidation under which the MSD would take over and thereafter maintain and repair of all the collector sewer systems in the County and rehabilitate those systems in need of rehabilitation. The City, the County, and the MSD now desire to announce the following Statement of Principles with which they have agreed concerning Sewer Consolidation:

STATEMENT OF PRINCIPLES

1. Sewer Consolidation means the assumption by the MSD of ownership and control of the collector sewer systems of participating government units in Buncombe County, including all lines, pipes, conduits, connections, manholes, covers, fittings, apparatus, rights of way, and easements presently owned by those participating units. Sewer Consolidation will further mean that upon such assumption of ownership and control the MSD will thereafter fully maintain and repair those collector sewer systems and will develop and implement a plan of rehabilitation of those systems in order that all collector sewer systems may be uniformly maintained, repaired, and rehabilitated as required under a single, cost effective, and centralized system.

City of Asheville for water service. Provided, the government units in the County retain the right to levy additional rates, fees, or charges in order to meet their responsibilities to construct new sewers and for any other lawful purposes.

10. Should residential, commercial, or industrial development occur in those parts of the County not presently served by any collector sewer system, the MSD shall have no obligation to extend collector sewer service to those areas not served. The government units in the County shall retain the right to make and implement all decisions with respect to the extension of sewer service within their respective jurisdictions. Those government units may contract with the MSD to construct sewer lines, but the funding of such construction and a decision of when and where to so construct shall solely be that of the separate government units.

11. Upon assumption of its obligations under Sewer Consolidation, the MSD will establish and maintain a system to receive and respond to citizen complaints and concerns about collector sewer system service.

12. Upon assumption of its obligations under Sewer Consolidation, the MSD agrees to repair to applicable standards any streets or rights of way owned and maintained by any government unit which are disturbed as a result of the maintenance, repair, and rehabilitation of any collector sewer system.

13. In order to discharge its responsibilities under Sewer Consolidation, the MSD recognizes that it will need a competent work force of employees in order to maintain the present level of sewer maintenance

6. The MSD will undertake the maintenance, repair, and rehabilitation of the collector sewer systems in a good and workmanlike manner adhering to good engineering practices and in accordance with all applicable federal and state regulations.

7. In discharging its obligations with respect to Sewer Consolidation, the MSD will generally follow the Buncombe County, North Carolina, Metropolitan Wastewater Management Plan adopted by the Task Force in 1982, except that where the Wastewater Management Plan contemplates a phased assumption of responsibilities by the MSD, the MSD will assume responsibility for all collector sewer systems at the same time in 1986.

8. The MSD in its sole and absolute discretion will determine the need for any maintenance, repair, and rehabilitation of the collector sewer systems and the priority in which any rehabilitation of the systems will take place. The MSD in its sole and absolute discretion will determine the timing and location of any maintenance, repair, and rehabilitation of the collector sewer systems, it being understood that the MSD will attempt first to address those problems which it finds to be the most critical throughout the collector sewer systems.

9. The City will act as billing and collecting agent for the MSD and shall collect any additional rates, fees, or charges levied by the MSD for use in connection with the maintenance, repair, and rehabilitation of the collector sewer systems. Any additional rates, fees, or charges levied by the MSD for such activity will be added to the rates, fees, or charges for sewage disposal service presently included in monthly bills rendered by the

IN WITNESS WHEREOF the parties have caused this document to be executed pursuant to authority duly given, this the 26th day of November, 1985.

ATTEST:

METROPOLITAN SEWERAGE DISTRICT
OF BUNCOMBE COUNTY

BY: C. LeRoy Robinson

ATTEST:

Kathy Hughes

COUNTY OF BUNCOMBE

BY: Chris Pelaez

ATTEST:

William F. Holcatt

CITY OF ASHEVILLE

BY: Lou McDevitt

services afforded by the government units. Accordingly, the MSD will offer full time employment to those persons presently in good standing employed by the participating government unit who are engaged in sewer maintenance, and all such persons who become MSD employees will thereafter become fully subject to all prevailing MSD rules and regulations governing employment.

14. The parties agree that if MSD fails to make substantial progress toward discharging its responsibilities under Sewer Consolidation within seven years following the transfer of the collector sewer systems then the government units which have transferred such systems to the MSD shall have the right to have those systems conveyed back to them.

15. The transfer of ownership of the collector sewer systems and the acceptance and operation of such systems by the MSD will be subject to the approval of the North Carolina Local Government Commission and will at all times be in full compliance with all of the terms and conditions of the Bond Order entered into by the MSD on the _____ day of June, 1985, which Bond Order secures certain outstanding bonds of the MSD.

16. The various government units which convey collector sewer systems to the MSD will make available to the MSD for purchase at its fair market value all items of machinery and equipment presently used by the respective government units in the maintenance of their collector sewer systems.

17. The City and the County will make available to the MSD at no cost for a period of time not exceeding four years the facilities which each presently maintain for the conduct of their respective sewer maintenance operations. The MSD will, however, be responsible for all utilities and for preventive maintenance at those facilities.

PROBLEMS

Let me direct your attention first to problems Asheville faces:

1. Our sanitary sewerage system is in deplorable condition. While we have undertaken major efforts at rehabilitation - such as Reed Creek, we are part of a county-wide problem that will cost our community, not just Asheville, at least $50 million dollars to correct. Until our sewerage system is rehabilitated, inadequate lines will continue to stymie growth while broken lines will continue to pollute our city. To address this problem by ourselves makes no sense, because the situation is as bad, if not worse, in most areas of Buncombe County outside Asheville. We must begin to correct this problem in cooperation with Buncombe County, the other towns within the county, sanitary sewer districts, and the Metropolitan Sewerage District.

2. The storm sewers of Asheville pose a problem that appears to wax and wane with the weather. In fact, our storm sewer system is inadequate and in many areas of Asheville non-existent. The result is that during heavy rains our streets are more dangerous than they should be and the property of many of our citizens is placed in jeopardy. One of the principal causes of this

STATE OF THE CITY MESSAGE

MAYOR LARRY MCDEVITT
Thursday, November 14, 1985
Asheville Rotary Club
Asheville Civic Center

Thank you Mr. Steele, members of the Asheville Rotary Club and guests, citizens of Asheville. I want to thank the Asheville Rotary Club for having me here today; my father was a member of this club until his death 35 years ago, and because of him, being with you has special meaning for me. I hope that my State of the City Message will become an annual or biannual tradition by the Mayor in which the people of Asheville are given a formal report and accounting of the condition of their city.

It is in that spirit then that I appear before you today. My comments are not intended to be a self-justification or attempted glorification of my years on city council, rather I will discuss with you the problems, progress and prospects of our city as they exist today. However, due to time limitations, my observations will not be all-inclusive but will attempt to highlight major areas.

sewer rehabilitation. How much would it cost to bring all city streets and sidewalks up to par? More than the city could possibly afford at one time. Therefore, a moderate approach, funded initially with bonds perhaps may be the wisest course of action to follow. Using this approach some of the worst streets and sidewalks could be reconditioned and the remainder placed on a scheduled multiyear pay-as-you-go plan. Scheduled preventative maintenance must be funded as streets and sidewalks are reconditioned so as to prevent a recurrence of the problems now before us. You should know that, in cooperation with the State, we are in the midst of the most comprehensive bridge repair and replacement program in our city's history, and this program will continue for five more years. We have also completed the planning necessary to begin computerized coordination of traffic lights on state roads which should be expanded in the future to all city traffic lights.

4. Some city facilities, particularly our own City Hall and Municipal Building, are in need of major repairs and renovations. In fact,

problem is the collapse of old storm sewers privately placed years ago and owned and maintained by no one. No thorough study of the extent of this problem has been undertaken and no satisfactory solution developed. The council is attempting to set aside funds to attack some of the worst of those problems in the public rights-of-way, however, those on private property must be dealt with by the property owners at least until a more comprehensive approach is found. While I cannot place an accurate price tag on the cost to place and rehabilitate our storm sewers, we can estimate that it will be at least as expensive within the city as the sanitary sewer rehabilitation cost is county-wide.

3. City streets and sidewalks continue to be a matter of concern. Funding from the State for maintenance of state roads in the city, such as Patton, Merrimon and Biltmore Avenues, is barely adequate, and funding for city streets and sidewalks is - and has for quite some time been - inadequate. Massive funding is necessary to recondition city streets and sidewalks and much of this should be coordinated with storm and sanitatary

responsibility for their neighborhoods, not just their own yards, (2) so that city and county governments will keep their rights of way clean, and (3) so that individual businesses, shopping centers, and industry will hear from a citizenry that the litter they generate or allow to accumulate on their property is a disgrace.

preliminary estimates indicate that the cost to repair and rehabilitate the Municipal Building, headquarters to our police and fire departments, would exceed the cost of constructing a new, up-to-date facility. Should council elect to construct a new facility, then we certainly should discuss with Buncombe County the feasibility of a joint law enforcement center that could serve common needs.

5. As our community grows so does our interest in the appearance of our city. Thanks to the efforts of Quality Forward, many individuals, and numerous civic organizations, public and private efforts are underway to attack the problems of litter, building appearance, landscaping, signage, vacant lots and right of way maintenance, problems which can destroy community pride and discourage shoppers and visitors from returning. We need to expand our capabilities in these areas, particularly in enforcing our newly toughened litter control ordinance. But most of all what is needed is a change in attitude (!) so that our citizens feel a

8. The question "How shall we grow?" still begs for an answer. Alternatives for Asheville will, we hope, help supply that answer. I trust the decisions which will come from this process will enable us to deal forcefully and realistically with growth issues that are beyond the scope of many of our current policies. If these issues are not resolved, our environment, our heritage, and our quality of life will be permanently altered. If we do not take the future of Asheville into our own hands, then it will be molded by the hands of others. I encourage each of you to continue to be involved, or begin to be involved, in the Alternatives for Asheville process and let your voice be heard. At least be prepared to attend the next round of public meetings a few weeks from now, when the preliminary reports will be presented. The results of this effort will chart our course for Asheville into the 21st century.

9. We have not yet felt the full impact of pending cuts of state and federal funds. Currently our city ad valorem tax provides only 24.7% of total city revenues; other revenue sources, including state and federal

6. An expanding and cosmopolitan city asks questions of its city fathers. What are we doing for the cultural life of our community? From Baryishnikov to Billy Edd Wheeler, how should we contribute to a creative climate for the arts? Most solutions will come from those citizens already involved as they raise funds, evaluate needs, and plan. The city's future role has yet to be defined, but must be defined with careful analysis and vision.

7. With the increased involvement of our citizens in the life and government of our city, we must not allow ourselves to fall prey to blind, single issue politics. It may be that your interest is the most important thing in the world to you, but the operation of this city is predicated on responding to thousands of interests and needs, none of which necessarily take precedence over others. Most people in our community understand this, and I hope this attitude will continue to be typical of our citizens.

PROGRESS

Of course our city will never be problem free. We will continue to attack these and many, many other problems which our city faces. In fact, city government has made substantial progress in the last few years on many fronts. Let me report to you on a few examples of that progress:

1. The fiscal condition of the city has improved markedly in the last two years. For several years city council has used its fund balance to balance the budget. During the last two years, revenues have exceeded spending thanks to sound fiscal management and extraordinary effort by the employees of our city. The bonds for the downtown parking garage have been retired, and we have dedicated twelve cents on the tax dollar, or approximately $2 million dollars a year, for debt service and capital reserve funds to enable us to begin to address some of the long range capital needs of our city.

2. For years, city councils and community leaders have spent a great deal of time and energy attempting to revitalize our decaying downtown.

funds, comprise the remainder. To compensate these losses we will either have to cut services further or increase taxes. In 1982 council made substantial cuts in personnel and in other areas in order to counter the effects of revaluation. There is little fat left in the city's operational budget. While there are always additional economies that can be found, I do not see the opportunity for further substantial savings in city operations without cutting services.

10. Asheville is once again without a city manager. One of my few regrets about being mayor is that I have spent almost half my term without a city manager. Billy Wolcott, a Rotarian and our interim city manager for the second time, our department heads, and our employees have performed in a magnificent manner during these periods. However, while basic city services have continued without interruption, the absence of a permanent city manager has slowed progress on many, many fronts. I can report to you that this council is still working to find the right person to be our city manager and we will continue to do so; however, I cannot tell you <u>when</u> to expect a decision.

The process of developing these projects and concluding the agreements upon which they are based has been tedious and time consuming, and your City Council and County Commissioners have been conservative and cautious. As I have said repeatedly, just because we have an agreement signed does not automatically mean that the project is underway. There are many hurdles to be crossed, many problems to be solved, and many decisions to be made before construction of any project can begin. In fact, only one project has actually begun construction. Another is expected to start shortly. The others are still in the process of finalizing plans, acquiring property, and securing private financing. If any of these projects fail to go forward under the contracts, there are other prospective developers waiting in the wings. The common wisdom that "it's not a project 'til it's built" is true, however, the prospects of eventual completion of these projects is excellent. We may have to deal with several developers to get what we want for Asheville, but that is appropriate. I have high hopes in this area but would caution you to guard against either unrealistic expectations or undue pessimism because of our deliberate pace.

Following the overwhelming rejection of the Strouse-Greenberg Project four years ago, we devised a community plan to attempt to stimulate redevelopment of, and reinvestment in, downtown Asheville. We have followed that plan, and it does seem to be working. Currently we have under contract five projects. The total value of these projects is $31,490,000.00. A sixth project valued at approximately $9 million dollars is currently in negotiations. The city and the county have made certain financial commitments to these projects without the use of ad valorem tax revenues; our total joint commitments to date are $2.54 million dollars. In addition, the City, with possible help from the County, will construct a parking facility on Rankin Street at a cost of approximately $2 million dollars. Our money for these commitments will come from Community Development Block Grant funds, federal UDAG funds, federal revenue sharing funds, and bond funds to be repaid through revenues. Generally speaking, the local government participation is geared toward the provision of parking and street improvements.

mean that your City Council and other community groups have undertaken significant and meaningful steps to encourage minorities in the city to feel and be a part of the process of government and know that they have a voice in the affairs and life of this City. It is my impression that the channels of communication, trust, and ability to work together have never been better, but it is essential to the well-being of our entire community that this momentum be maintained.

5. The protection of the lives and property of its citizens is the first obligation of government. With that thought in mind I should report that for the first eight months of 1985 while we experienced slight increases in violent crimes, such as rape, robbery, and aggravated assault, we saw decreases in property crime, such as burglary, our number 1 problem. Breaking and entering for businesses is down almost 25% from last year and down 7.3% for residences. Motor vehicle theft is up 3.2% and larceny from automobiles up 2.5%. Compared to the nine core cities in the State of North Carolina, that is, cities which have populations of 50,000 or more, Asheville experienced 4.3% less crime than any other core city during this

3. A few minutes ago I described to you the problems with our sanitary sewerage system. I am happy to report to you today that negotiations which have been underway for two years among Buncombe County, the City of Asheville, and the Metropolitan Sewerage District, have made substantial progress. In fact, the drafting of an agreement in principle is in process for final consideration by all three governmental bodies. If approved, this agreement would establish the principles upon which our sewerage systems would be consolidated for purposes of maintenance and rehabilitation under the Metropolitan Sewerage District. Once those three bodies have concluded this agreement of principles - and it is absolutely essential to any sewer consolidation that those three do agree - we will ask the other governmental entities in Buncombe County to join us in an attempt to draft an agreement by which all public sewerage systems in Buncombe County could be consolidated.

4. Community relations, particularly with respect to minorities, are perhaps in the best condition ever. That does not mean that we have solved all of our problems in this area or even adequately addressed them. It does

6. While on the subject of city employees, you should know that the City has 850 full-time employees, down approximately 400 full-time positions from several years ago. We have recently revised the City's pay and reclassification plan to provide a more equitable salary structure for our employees and to provide for pay raises and promotions based on merit rather than longevity. In my opinion, the general morale of our employees is good and I am satisfied that we are fortunate to have some of the most competent, dedicated, decent people working for the City of Asheville that I have had the privilege to know. As with any organizations, we have had, and will continue to have, problems, particularly in the area of public relations, but our employees are aware of their responsibility to the public and on the whole take pride in their work on behalf of the City.

7. One of the brightest spots in the development of our city is the resurgence of neighborhood pride. As a council we have rejected the notion that neighborhood organizations should be discouraged because they are troublemakers. Rather, our policy has been to encourage the development of,

period. The crime rate is significantly less within the city limits of Asheville than outside the city limits of Asheville, and we are continuing to improve our training in order to improve the quality of protection afforded to our citizens. Of course, there will never be enough policemen to set continuous speed traps on all streets, to quiet all barking dogs, or to patrol on foot every square inch of our city, and I doubt that our police force, as fine as it is, will distinguish itself as the first force in the country to eradicate prostitution. Nonetheless, I would judge the quality of protection afforded to our citizens as excellent in comparison to other cities in North Carolina and would suggest that while certainly improvements can come about through better training, improved law enforcement in our city will only come about with increased manpower at a higher cost.

Our fire department continues to distinguish itself not only in the area of firefighting but in the more important area of fire <u>prevention</u> which is largely unappreciated in our community. The recommendation and enforcement of a new fire code and the merging of the fire and police communications centers will certainly improve their ability to respond to the needs of this city.

four years, not a harsh word has passed between us. Your elected representatives have successfully established a relationship based upon respect and trust. We have attempted not to make excessive demands of each other and have been able quietly, but effectively, to cooperate in downtown development, litter control, sewer consolidation, and in some planning. The City is in the process of renovating facilities to provide more room for the storage of bulk purchase needs, and we have invited the County to evaluate the possibility of joint use of such a facility. It has been a real pleasure and a source of pride for me to represent the City in discussions with county officials who were unfailingly attentive, polite, candid, and helpful. In my opinion, the people of Asheville, who also vote for the County Commissioners, should be proud of the Commissioners' responses to the needs of their Asheville constituents.

PROSPECTS

With the problems to be faced and the progress made, what are the prospects for our city? Comparatively speaking, they are excellent.

and interest in, neighborhoods, whether individually or through neighborhood groups, and we welcome the interest, the enthusiasm, the questions, the criticisms, and the ideas that the people who live in our city's neighborhoods have to offer. I am particularly proud of the neighborhood development plans that have been submitted to us by various neighborhood groups. While most of the plans would require a financial commitment from the City that, at least in one case, would exceed the total city budget for two years, this is healthy because the spirit in which these plans have been submitted has been with the understanding that more is being asked than the City can give - at least now - but these plans give us blueprints for maintaining and enhancing the special character of individual neighborhoods. This will preserve the unique diversity of our city and make it a place where people want to live.

8. I would certainly be remiss if I did not mention the quality of the City's relationship to the government of Buncombe County. I hope you have noticed that at least in the last two years, and for most of the last

capacity, and will have an even greater capacity, to become what we want to become. We all sense this. Our people have responded to those policies of City Council which encourage public debate, public criticism, and public input. As a result, the spirit of the people of Asheville has been rekindled, and we are experiencing a veritable explosion of enthusiasm, ideas, and interest from a broad spectrum of individuals and groups which comprise our city. Being a part of the revival of this spirit is perhaps the one thing I will miss most when my term as Mayor ends. It is this spirit and willingness to improve our community that is our greatest strength.

What is happening now, of course, did not just begin to happen when this council assumed office. Asheville has been building its base of sound leadership for years. While the political make-up of city council can change from election to election, it should be noted that dedicated men and women of both political parties have been able to sit on this council and work cooperatively and as a team. They brought a level of expertise and understanding developed over years of public service. I do want you to know how proud I am of this council and the non-partisan approach it has taken

First of all, the mechanisms are, or shortly will be, in place to deal with the issues of water and sewer. The Asheville-Buncombe Water Authority has been operational now for four years and is doing an outstanding job. They have already increased the water capacity of this community and have plans for the development of a new water source and an extension of our water system. It is important for you to know that while our water problems are not solved, the means are available to solve them. When sewer consolidation comes about, and it must, a similar mechanism will exist to address that problem. The citizens' plan from Alternatives for Asheville will have allowed local people to set the course for the development of our City. With this plan in hand we will be able to evaluate our long range goals and develop strategies to meet them. I can foresee the possibility of a major bond issue, user service charges, or of other types of financial arrangements being submitted to the people of this community in order to address our capital needs over a five to twenty year period, and we will have the information available, and the plans in place so that the people of this community and your leaders can made informed decisions. We have the

Tuesday - December 3, 1985 - 4:00 p.m.

Organizational Meeting

OATHS OF OFFICE

Mayor Larry McDevitt introduced Judge C. Walter Allen, who administered the Oath of Office to the following:

Mayor W. Louis Bissette, Jr.

Mayor McDevitt presented the gavel to Mayor Bissette.

Councilman Kenneth M. Michalove
Councilman Mary Lloyd Frank
Councilman Walter R. Boland
Councilman George M. Tisdale
Councilman Wilhelmina Bratton
Councilman Norma T. Price

The Mayor and members of Council introduced relatives in attendance and made brief remarks.

INVOCATION

The invocation was given by Rev. Arthur F. Fogartie.

RESOLUTION NO. 85-223 - RESOLUTION OF APPRECIATION TO GORDON MYERS

Mayor Bissette read a resolution of appreciation to Gordon Myers.

Upon motion of Councilman Boland, seconded by Councilman Frank, Resolution No. 85-223 was unanimously adopted.

Complete text of Resolution No. 85-223 will be found in Resolution Book No. 15 at page 378.

Mayor Bissette presented a copy of the resolution and a plaque for Gordon Myers, to Mrs. Kay Myers in Gordon Myers' absence.

RESOLUTION NO. 85-222 - RESOLUTION OF APPRECIATION TO MAYOR LARRY MCDEVITT

Mayor Bissette read a resolution of appreciation to Mayor Larry McDevitt.

Upon motion of Councilman Price, seconded by Councilman Frank, Resolution No. 85-222 was unanimously adopted.

to solving our problems. You should be proud of them, too. As I have said before, except for my family, I doubt that I will ever know a greater joy than the honor of having served as Mayor of this city for this city council. I am proud, not of myself, but of our city and this community.

I leave office with faith in our people and our newly elected leaders, with pride in our past, and with confidence in our future - knowing that Asheville is truly poised for unprecedented greatness.

Good afternoon.

Tuesday - December 3, 1985 - 5:00 p.m.

Regular Meeting

Present: Mayor Louis Bissette, Presiding; Vice-Mayor Mary Lloyd Frank; Councilmen Wilhelmina Bratton, Norma T. Price, Walter R. Boland, George M. Tisdale, and Kenneth M. Michalove; Corporation Counsel William F. Slawter; Acting City Manager William F. Wolcott, Jr.; and Deputy City Clerk Carol Hensley.

Absent: None

APPROVAL OF THE MINUTES - NOVEMBER 26, 1985 MEETING

1. Approval of the minutes of November 26, 1985 meeting.

Councilman Price moved that the minutes of the November 26, 1985, meeting be amended to include the "State of the City Address" delivered by Mayor McDevitt. This motion was seconded by Councilman Boland and carried unanimously.

PROPOSAL BY SOUTH EASTERN HISTORIC PROPERTIES, INC., FOR A REDEVELOPMENT PROJECT FOR THE WALL STREET AREA

2. A proposal by Southeastern Historic Properties, Inc., was presented for a redevelopment project for the Wall Street area.

Mayor Bissette said consideration of the resolution authorizing the execution of a Memorandum of Understanding with Southeastern to participate in the project would be on the agenda for December 10, 1985, since negotiations are still going on relative to the terms of the Memorandum of Understanding with Southeastern Historic Properties, Inc.

Bill Smith, President of Southeastern Historic Properties, Inc., presented the plans for a proposed $8.4 million project to revitalize Wall Street in downtown. Mr. Smith described the proposals stating that plans are proposed for a three-phase development involving a parking deck, street improvement, and rehabilitation of 11 buildings, 10 of which Southeastern Historic Properties, Inc., presently owns. He said the developers have spent a lot of time on the development of the Wall Street Project, and he feels it is critical to the success of the revitalization of downtown.

Mr. Smith said the four-story, 350-space parking deck would be constructed on the west end of Wall Street with three access points and one exit. He said it would rise to the level of Battery Park Avenue. He said the rehabilitation would involve buildings on the south side of Wall Street and would include 22 apartments on the second floor level of the buildings, 40,000 square feet of retail space, 10,000 square feet of office space, and 30,000 square feet of space in the Public Service Building that would be used as an inn or as additional office space. He said the developers have worked closely with the existing tenants on Wall Street, and the tenants have a lot of interest in the proposed redevelopment.

Complete text of Resolution No. 85-222 will be found in Resolution Book No. 15 at page 377.

Mayor Bissette presented the resolution and a plaque to Mayor Larry McDevitt.

ELECTION OF VICE-MAYOR

Mayor Bissette said, as a matter of procedure, the election of the Vice-Mayor would be as follows: 1) That the vote be taken in alphabetical order by voice vote; 2) that members of Council vote by name only for one candidate; 3) that in the event that three nominations are made, after the first vote, the nominee with the least number of votes be eliminated if the nominee did not receive a majority vote.

Councilman Price nominated Mary Lloyd Frank as Vice-Mayor of the City of Asheville.

Councilman Bratton nominated Councilman Bratton as Vice-Mayor for the City of Asheville.

Councilman Michalove moved that if the entire Council could not agree on one person for being Vice-Mayor, the term of Vice-Mayor be rotated, an equal number of months, in alphabetical order, for those who wish to serve as Vice-Mayor.

Not receiving a second for Councilman Michalove's motion, Mayor Bissette declared Councilman Michalove's motion dead for lack of a second.

On a roll call vote, Councilman Frank was elected as Vice-Mayor, the vote being as follows:

Councilman Boland voting for Councilman Frank;
Councilman Tisdale voting for Councilman Frank;
Councilman Price voting for Councilman Frank;
Councilman Bratton voting for Councilman Bratton;
Councilman Frank voting for Councilman Frank;
Councilman Michalove voting "No vote;"
Councilman Bissette voting for Councilman Bratton.

ADJOURNMENT

Mayor Bissette adjourned the organizational meeting and called for a brief recess before opening the regular meeting of the December 3, 1985, meeting.

ORDINANCE NO. 1551- AN ORDINANCE DESIGNATING A BUILDING AND PROPERTY KNOWN AS "THE GATE HOUSE" AT 265 CHARLOTTE STREET IN ASHEVILLE, NORTH CAROLINA, CURRENTLY OWNED BY MAPLE COVE, INC., AS HISTORIC PROPERTY

3. Consideration was given to the second reading of Ordinance No. 1551, an ordinance designating a building and property known as "The Gate House" at 265 Charlotte Street in Asheville, North Carolina, currently owned by Maple Cove, Inc., as historic property.

Mayor Bissette said the structure known as "The Gate House" was completed in 1899 as the entrance to the grounds of the Manor Inn, and remains an impressive Lodge of shingle, stucco, and timber with a rock tower. It also serves as a reminder of the architecture of early resort developments in Western North Carolina. The Historic Resources Commission of Asheville and Buncombe County has demonstrated the historic significance of the building, and the Division of Archives and History of North Carolina Department of Cultural Resources has endorsed the findings of the Commission. This ordinance passed on first reading on November 26, 1985.

Mayor Bissette said this ordinance was previously read on first reading and would not be reread in its entirety unless there was a specific request to do so.

R. L. Bailey, President of Maple Cove, Inc., said he supported the findings of the Historic Resources Commission, and the ordinance would have his full support.

Ralph Bishop spoke in opposition to the adoption of the ordinance.

On a roll call vote of 7-0, Ordinance No. 1551 passed on second reading.

ORDINANCE NO. 1552 - AN ORDINANCE DESIGNATING A STREET KNOWN AS "NORTH MARKET STREET" AND AN ALLEY KNOWN AS "LANGREN ALLEY" IN ASHEVILLE, NORTH CAROLINA, CURRENTLY OWNED BY THE CITY OF ASHEVILLE, AS HISTORIC PROPERTY

4. Consideration was given to the second reading of Ordinance No. 1552, an ordinance designating a street known as "North Market Street" and an alley known as "Langren Alley" in Asheville, North Carolina, currently owned by the City of Asheville, as historic property.

Mayor Bissette said North Market Street is the last street in the City of Asheville having brick pavement, and Langren Alley is the last street in the City of Asheville having Belgian block pavement. These pavements figured prominently in the development of Asheville's thoroughfares. The Historic Resources Commission of Asheville and Buncombe County has demonstrated the historic significance of the street, and the Division of Archives and History of North Carolina Department of Cultural Resources has endorsed the findings of the Commission. This ordinance passed on first reading on November 26, 1985.

Mayor Bissette said this ordinance was previously read on first reading and would not be reread in its entirety unless there was a specific request to do so.

On a roll call vote of 7-0, Ordinance No. 1552 passed on second reading.

Jim Glave, Architect for Southeastern Historic Properties, Inc., showed detailed maps of the proposed project and an aerial view. He said other improvements would include covering the asphalt street with paving brick or paving block, tree plantings, street lights, benches, and improved drainage, and creation of a green space behind the Lantzius Building. He said the project proposes that Wall Street would be closed to vehicular traffic during the normal business hours to increase pedestrian activity. He said in the future, if the closing of Wall Street proved to be unsuccessful, the project is flexible enough that Wall Street could be reopened. He said the developers had consulted with the State Historic Preservation Officer relative to restoring the facades on the Wall Street and Patton Avenue buildings. He said the facades would be put back to their original condition.

Ned Guttman, of 58 Beachwood Road, spoke in support of the proposed project. He requested that the developers consider a facade on the parking building on the Battery Park Avenue side to be consistent with the Post Office Building and the Grove Arcade Building. He also questioned whether a three-story parking building would be better than a four-story parking deck.

Upon inquiry of Ralph Bishop, Mayor Bissette said private and federal money would be used to develop the project, and imminent domain is a possibility on some parcels in the area.

Roy Burchfield, Manager of Penney's, said he was concerned about parking. He said the merchants in the area need parking badly. He said he was concerned about the closing of Wall Street because he felt this street is needed for the smooth flow of traffic in the downtown area. He suggested that Wall Street be open to vehicular traffic flowing one way. He said an additional hardship, by closing Wall Street, would be the congestion on College and Haywood Streets.

It was a consensus of Council, at the request of Councilman Michalove, that the City Manager receive traffic counts on Wall Street, Haywood Street, and Otis Street to determine the traffic flow in the area. He also requested that the City staff investigate the possibility of making Battery Park a two-way street.

Kathryn Grooms, merchant on Wall Street, questioned three entrances going into a parking deck with only one exit. She said she felt this would create a problem. She said she was also concerned about the closing of Wall Street. She invited the developers, Southeastern Historic Properties, to attend the next Wall Street Merchants Association meeting to discuss their proposed plans.

Gail Brady, merchant on Wall Street, said she was concerned that the redevelopment of the area would cause the rent to rise above what Asheville could support.

Bill Smith, President of Southeastern Historic Properties, Inc., answering some of the concerns of the area merchants, said the project would have the flexibility of opening or closing Wall Street. He said he would rely on the judgment of the architect relative to the facade on the parking deck facing Battery Park.

Mayor Bissette said this ordinance was previously read on first reading and would not be reread in its entirety unless there was a specific request to do so.

On a roll call vote of 7-0, Ordinance No. 1554 passed on second reading.

ORDINANCE NO. 1549 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED - PROPERTY LOCATED IN REDWOOD FOREST AND SHAWNEE TRAIL AREA (MR. TED MORRIS, AGENT)

7. Consideration was given to the third reading of Ordinance No. 1549, an ordinance amending Ordinance No. 322, known as "An ordinance providing for the zoning of the City of Asheville," as amended - property located in Redwood Forest and Shawnee Trail area (Mr. Ted Morris, Agent).

Mayor Bissette said the Asheville Planning and Zoning Commission, at a meeting held October 2, 1985, reviewed and approved the petition of the residents of the Redwood Forest Subdivision and Shawnee Trail to rezone their property from R-2 Residential District to R-1 Residential District. This ordinance passed on first reading at the November 19, 1985, meeting and on second reading at the November 26, 1985, meeting.

Mayor Bissette said this ordinance was previously read on first and second reading and would not be reread in its entirety unless there was a specific request to do so.

On a roll call vote of 7-0, Ordinance No. 1549 passed on third and final reading.

Complete text of Ordinance No. 1549 will be found in Ordinance Book No. 10 at page 327 and 328.

SALE OF DISPOSAL PARCELS 4, 63, 75, AND 198 - EAST RIVERSIDE URBAN RENEWAL PROJECT - EAST END/VALLEY STREET COMMUNITY IMPROVEMENT AREA

8. Consideration was given to a motion approving the sale of disposal parcels 4, 63, 75 and 198 in the East Riverside Urban Renewal Project and the East End/Valley Street Community Improvement Area.

Mayor Bissette said the Housing Authority has tentatively accepted the following bids for certain disposal parcels in the East Riverside Urban Renewal Project and the East End/Valley Street Community Improvement Area.

Parcel	Reuse	Price	Bid	Redeveloper
4	Residential	$1,950.00	$2,000.00	R & R Associates, Inc.
63	Residential	2,050.00	2,100.00	R & R Associates, Inc.
75	Residential	1,400.00	1,450.00	R & R Associates, Inc.
198	Residential	1,620.00	1,621.00	Randolph Evans & April Twitty

Lots 4, 63, and 75 of the East End/Valley Street Area are to be developed with single family homes for resale. The eventual purchasers of the completed homes will be able to obtain a Dollar-A-Lot subsidy. These lots are located on Martin Luther King Drive.

ORDINANCE NO. 1553 - AN ORDINANCE DESIGNATING A BUILDING AND PROPERTY KNOWN AS "THE MANOR" AT 265 CHARLOTTE STREET IN ASHEVILLE, NORTH CAROLINA, CURRENTLY OWNED BY TRANSCO FINANCIAL GROUP, LTD., AS HISTORIC PROPERTY

5. Consideration was given to the second reading of Ordinance No. 1553, an ordinance designating a building and property known as "The Manor" at 265 Charlotte Street in Asheville, North Carolina, currently owned by Transco Financial Group, Ltd., as historic property.

Mayor Bissette said "The Manor" was complete in 1899 as an "English Country Inn in America," and is a rare surviving example of the picturesque resort development so important to the history of the North Carolina mountains. The Historic Resources Commission of Asheville and Buncombe County has demonstrated the historic significance of the building, and the Division of Archives and History of North Carolina Department of Cultural Resources has endorsed the findings of the Commission. This ordinance passed on first reading on November 26, 1985.

Mayor Bissette said this ordinance was previously read on first reading and would not be reread in its entirety unless there was a specific request to do so.

Verl Emrick, Director of Planning, said a letter has been received from Jerry Crowe, Attorney representing Matthew Elman, requesting that action on the ordinance be postponed until the process of completing foreclosure proceedings against the property is completed.

After discussion, Vice-Mayor Frank moved that the second reading of Ordinance No. 1553 be postponed until February 4, 1986. This motion was seconded by Councilman Tisdale and carried unanimously.

Max Hanger, Secretary of the Grove Park Sunset Citizens Association, said the Association members are concerned about the future use of the Manor. He requested that Council give this matter proper consideration.

ORDINANCE NO. 1554 - AN ORDINANCE DESIGNATING A BUILDING AND PROPERTY KNOWN AS "THE GROVE ARCADE" ON BATTLE SQUARE IN ASHEVILLE, NORTH CAROLINA, CURRENTLY OWNED BY THE UNITED STATES OF AMERICA, AS HISTORIC PROPERTY

6. Consideration was given to the second reading of Ordinance No. 1554, an ordinance designating a building and property known as "The Grove Arcade" on Battle Square in Asheville, North Carolina, currently owned by the United States of America, as historic property.

Mayor Bissette said "The Grove Arcade" was designed by prominent architect Charles N. Parker and built for famous developer and entrepreneur Edwin W. Grove, known as the "Father of Twentieth Century in Asheville." The "Grove Arcade" is a grand and flamboyant building constructed of fine ornamental terra cotta and stone, and is finished inside and out with Tudoresque and medieval ornamentation. This building is also a rare example of an interior shopping arcade with covered pedestrian thoroughfares. The Historic Resources Commission of Asheville and Buncombe County has demonstrated the historic significance of the building, and the Division of Archives and History of North Carolina Department of Cultural Resources has endorsed the findings of the Commission. This ordinance passed on first reading on November 26, 1985.

SCHEDULING PUBLIC HEARING - AMENDING ZONING ORDINANCE BY CREATING A NEW R2-A RESIDENTIAL DISTRICT FOR DECEMBER 17, 1985

11. Consideration was given to a motion scheduling a public hearing relative to amending the Zoning Ordinance by creating an R2-A Residential District December 17, 1985.

Mayor Bissette said the Asheville Planning and Zoning Commission, at a meeting held November 6, 1985, considered the request of the Haw Creek Community Association, Inc., that the Zoning Ordinance be amended by creating a new R2-A Residential District. After discussion, the Commission voted to recommend to City Council that the request be denied and that the alternate recommendation of staff to amend the current R-2 Residential District be denied. The Haw Creek Community Association, Inc., has requested that Council hold a public hearing relative to this request.

Councilman Boland moved to schedule a public hearing relative to amending the Zoning Ordinance by creating a new R2-A Residential District for December 17, 1985. This motion was seconded by Councilman Price and carried unanimously.

COUNCILMAN MICHALOVE'S REQUEST FOR CURRENT STUDIES DEALING WITH ANNEXATION

At the request of Councilman Michalove, it was the consensus of Council that the City Manager present to members of Council current studies available through the Planning Department relative to annexation plans of the City of Asheville. It was requested that this information be presented to Council before January 1, 1986. It was also requested that the statement from the North Carolina League of Municipalities relative to annexation also be presented to members of Council.

CLAIMS - CAROLYN HOGAN (STREETS) - CLIFTON YOUNG (SEWER) - GWENDOLYN MILLER (STREETS) - MAE THOMAS (SANITATION)

The Acting City Manager presented claims received from Carolyn Hogan, Clifton Young, Gwendolyn Miller, and Mae Thomas.

Mayor Bissette referred the claims to the Corporation Counsel for investigation and recommendation.

RALPH BISHOP - LOTTERY SALES IN THE CITY OF ASHEVILLE

Ralph Bishop again spoke to members of Council relative to the lottery peddlers running wide open in the City of Asheville, and violating income tax laws.

ADJOURNMENT - EXECUTIVE SESSION

Councilman Price moved to adjourn the meeting to Executive Session to discuss real estate and personnel matters. This motion was seconded by Councilman Boland and carried unanimously.

MAYOR

CITY CLERK

Lot 198 of East Riverside Urban Renewal Project is a residential lot sale for a single family structure under the Incentive Housing Program. This lot is located on South French Broad Avenue.

Councilman Price moved to accept the recommendations of the Housing Authority for the sale of disposal parcels 4, 63, 75 and 198 in the East Riverside Urban Renewal Project and East End/Valley Street Community Improvement Area. This motion was seconded by Councilman Boland and carried unanimously.

SCHEDULING PUBLIC HEARING - GROUP DEVELOPMENT REVIEW - BUCK COVE DEVELOPMENT - DECEMBER 17, 1985

9. Consideration was given to a motion to schedule a public hearing for a group development review - Buck Cove Development for December 17, 1985.

Mayor Bissette said the Asheville Planning and Zoning Commission, at a meeting held November 13, 1985, reviewed the site plan of the proposed Buck Cove Development (Townhouses) to be located on Old Chunns Cove Road. The site plan was prepared by Dobson Engineering and Associates for Mr. Larry Buckner, Developer, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of the site plan to City Council subject to the following conditions: 1) that the street be constructed to an average grade of 15% and a maximum grade of 20%; 2) that the project comply with the Erosion Control Ordinance and that the final plans be shown with 2' contours instead of 5'.

Councilman Price moved to schedule a public hearing relative to the group development review for the Buck Cove Development for December 17, 1985. This motion was seconded by Councilman Michalove and carried unanimously.

SCHEDULING PUBLIC HEARING - EXTENDING PRESENT MORATORIUM IN THE HAW CREEK AREA FOR DECEMBER 17, 1985

10. Consideration was given to a motion scheduling a public hearing relative to extending the present moratorium in the Haw Creek Area for December 17, 1985.

Mayor Bissette said on August 20, 1985, Council adopted Ordinance No. 1530 imposing a moratorium on property in the Haw Creek Area for the issuance of any zoning or building permits and consideration of any request for group development review by the Planning and Zoning Commission. This moratorium expires on January 1, 1986, and a request has been received for Council to consider extending the moratorium for an additional ninety (90) days.

Councilman Michalove moved to schedule a public hearing relative to extending the present moratorium in the Haw Creek Area for December 17, 1985. This motion was seconded by Councilman Tisdale and carried unanimously.

Mr. Kisiah said Mrs. Byers had been employed with the City of Asheville for over twenty-two years as a Director of the Burton Street Center.

RECOGNITION OF STUDENTS FROM UNC-A

Mayor Bissette recognized students attending the Council meeting from UNC-A, during a special project in a news writing class at UNC-A.

PUBLIC HEARING - AMENDING THE ZONING ORDINANCE FOR RIDGE LAW AMENDMENTS

ORDINANCE NO. 1558 - AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE BY ADDING A NEW SECTION 30-3-18 ENTITLED "PROTECTED MOUNTAIN RIDGES"

3. A public hearing was held relative to amending the Zoning Ordinance relative to Ridge Law amendments.

Mayor Bissette said at the regular meeting of the Asheville Planning and Zoning Commission held on November 13, 1985, the Commission recommended to Council the adoption of an Ordinance amending Chapter 30 of the Code of Ordinances of the City of Asheville to expand the coverage of the Mountain Ridge Protection Act of 1983 to prohibit tall buildings on all ridges 500 feet above the adjacent valley floor.

Julia Cogburn, with the Planning Department, outlined the amendments to the Code of Ordinances stating that this amendment would expand the coverage of the Mountain Ridge Protection Act of 1983, as amended, in the City of Asheville and the extraterritorial planning jurisdiction of the City to further regulate the construction of tall buildings or structures on mountain ridges. She said this would restrict tall buildings or structures with a vertical height of more than 40 feet. She said this ordinance would eliminate the 3,000 foot elevation requirement in North Carolina General Statutes Section 113A-206 (6) in defining and protecting mountain ridges. She said a protective mountain ridge would be defined as all mountain ridges whose elevation is 500 or more feet above the elevation of an adjacent valley floor.

Councilman Boland said that he felt there were many issues relative to mountain ridges that were not covered by this ordinance, and in his opinion, Council should deal with these issues.

Mayor Bissette closed the public hearing at 4:16 p.m.

Mayor Bissette said members of Council were previously furnished copies of the ordinance, and it would not be read in its entirety unless there was a specific request to do so.

Councilman Boland moved for the adoption of Ordinance No. 1558. This motion was seconded by Councilman Michalove.

Councilman Boland said it was his hope that the "Alternatives for Asheville" Committee would be addressing issues involving mountain ridges.

Tuesday - December 10, 1985 - 4:00 p.m.

Regular Meeting

Present: Mayor Louis Bissette, Presiding; Vice-Mayor Mary Lloyd Frank; Councilmen Norma T. Price; Kenneth M. Michalove; Walter R. Boland; George M. Tisdale; and Wilhelmina Bratton; Corporation Counsel William F. Slawter; Acting City Manager William P. Wolcott, Jr and Deputy City Clerk Carol Sundley.

Absent: None

APPROVAL OF THE MINUTES - DECEMBER 3, 1985 MEETING

1. Approval of the minutes of the December 3, 1985 meeting.

Councilman Michalove requested that the minutes be amended to include the following verbatim statement relative to the election of the Vice-Mayor:

"Mayor and fellow Council members, the election of the Vice-Mayor is our first official act as the team that has been elected to serve all the residents of the City of Asheville for the next two years. To me, the Vice-Mayor election is insignificant compared to the issues that lie ahead. While I would not expect us to agree on every issue that lies in the future, I feel that the most important aspect of this issue is to start as a team, undivided.

Therefore, I cannot, in good conscience vote for Mrs. Bratton or Mrs. Frank. Not because they are not qualified, but because it perpetuates division.

My recommendation is that if we cannot agree on one amongst us to assume these responsibilities that we can all agree on, in the absence of that, the responsibilities of Vice-Mayor should be rotated for equal months, in alphabetical order, among those that want the responsibility.

Simply put, on this issue, united we stand, divided we fail."

Councilman Tisdale requested that the minutes be amended to reflect that he seconded Councilman Price's motion to nominate Mary Lloyd Frank as Vice-Mayor of the City of Asheville.

Mayor Bissette announced the approval of the minutes as amended.

PRESENTATION OF AWARD - LOLA BYERS - NORTH CAROLINA RECREATION AND PARKS SOCIETY

2. Ray Kisiah, Director of Parks and Recreation, introduced Mr. Rick Bennett, representing the North Carolina Recreation and Parks Society, who presented Lola Byers, with an award and plaque from the North Carolina Recreation and Parks Society as an outstanding recreation leader.

Mayor Bissette said North Market Street is the last street in the City of Asheville having brick pavement, and Langren Alley is the last Street in the City of Asheville having Belgian block pavement. These pavements figured prominently in the development of Asheville's thoroughfares. The Historic Resources Commission of Asheville and Buncombe County has demonstrated the historic significance of the building, and the Division of Archives and History of North Carolina Department of Cultural Resources has endorsed the findings of the Commission. This ordinance passed on first reading on November 26, 1985 and on second reading on December 3, 1985.

Mayor Bissette said this ordinance was previously read on first and second reading, and it would not be reread in its entirety unless there was a specific request to do so.

On a roll call vote of 7-0, Ordinance No. 1552 passed on third and final reading.

Complete text of Ordinance No. 1552 will be found in Ordinance Book No. 10 at Page 332 and 333.

ORDINANCE NO. 1554 - AN ORDINANCE DESIGNATING A BUILDING AND PROPERTY KNOWN AS "GROVE ARCADE" ON BATTLE SQUARE IN ASHEVILLE, NORTH CAROLINA, CURRENTLY OWNED BY THE UNITED STATES OF AMERICA, AS HISTORIC PROPERTY

6. Consideration was given to the third reading or Ordinance No. 1554, an ordinance designating a building and property known as "Grove Arcade" on Battle Square in Asheville, North Carolina, currently owned by the United States of America, as historic property.

Mayor Bissette said "The Grove Arcade" was designed by prominent architect Charles N. Parker and built for famous developer and entrepreneur Edwin W. Grove, known as the "Father of Twentieth Century in Asheville". "The Grove Arcade" is a grand and flamboyant building constructed of fine ornamental terra cotta and stone, and is finished inside and out with Tudoresque and medieval ornamentation. This building is also a rare example of an interior shopping arcade with covered pedestrian thoroughfares. The Historic Resources Commission of Asheville and Buncombe County has demonstrated the historic significance of the building, and the Division of Archives and History of North Carolina Department of Cultural Resources has endorsed the findings of the Commission. This ordinance passed on first reading on November 26, 1985, and on second reading on December 3, 1985.

Mayor Bissette said this ordinance was previously read on first and second reading and would not be reread in its entirety unless there was a specific request to do so.

On a roll call vote of 7-0, Ordinance No. 1554 passed on third and final reading.

Complete text of Ordinance No. 1554 will be found in Ordinance Book No. 10 at Page 337 and 338.

Upon inquiry of Mayor Bissette, Julia Cogburn said the State of North Carolina, Department of Natural Resources and Community Development, would be reviewing and finalizing a map to submit prior to March, 1986. She said the State would also be looking at whether or not to include Beaucatcher Mountain as a protected mountain ridge.

On a roll call vote of 7-0, Ordinance No. 1558 passed on second reading.

ORDINANCE NO. 1551 - AN ORDINANCE DESIGNATING A BUILDING AND PROPERTY KNOWN AS "THE GATE HOUSE" AT 265 CHARLOTTE STREET IN ASHEVILLE, NORTH CAROLINA, CURRENTLY OWNED BY MAPLE COVE, INC. AS HISTORIC PROPERTY

4. Consideration was given to the third reading of Ordinance No. 1551, an ordinance designating a building and property known as "The Gate House" at 265 Charlotte Street in Asheville, North Carolina, currently owned by Maple Cove, Inc. as historic property.

Mayor Bissette said the structure known as "The Gate House" was completed in 1899 as the entrance to the grounds of the Manor Inn, and remains an impressive Lodge of shingle, stucco, and timber with a rock tower. It also serves as a reminder of the architecture of early resort developments in Western North Carolina. The Historic Resources Commission of Asheville and Buncombe County has demonstrated the historic significance of the building, and the Division of Archives and History of North Carolina Department of Cultural Resources has endorsed the findings of the Commission. This ordinance passed on first reading on November 26, 1985 and on second reading on December 3, 1985.

Mayor Bissette said this ordinance was previously read on first and second reading, and it would not be reread in its entirety unless there was a specific request to do so.

Upon inquiry of Ralph Bishop, Mayor Bissette said the property would remain historic property as long as City Council wants it to remain that designation. He said this ordinance would not prohibit demolition of the building.

On a roll call vote of 7-0, Ordinance No. 1551 passed on third and final reading.

Complete text of Ordinance No. 1551 will be found in Ordinance Book No. 10 at Page 330 and 331.

ORDINANCE NO. 1552 - AN ORDINANCE DESIGNATING A STREET KNOWN AS "NORTH MARKET STREET" AND AN ALLEY KNOWN AS "LANGREN ALLEY" IN ASHEVILLE, NORTH CAROLINA, AND CURRENTLY OWNED BY THE CITY OF ASHEVILLE, AS HISTORIC PROPERTY

5. Consideration was given to the third reading of Ordinance No. 1552, an ordinance designating a street known as "North Market Street" and an alley known as "Langren Alley" in Asheville, North Carolina, and currently owned by the City of Asheville, as historic property.

Mayor Bissette said this resolution was previously presented to members of Council and would not be read in its entirety unless there was a specific request to do so.

Upon motion of Vice-Mayor Frank, seconded by Councilman Price, Resolution No. 85-225 was unanimously adopted.

Complete text of Resolution No. 85-225 will be found in Resolution Book No. 15 at Page 366.

APPROVAL OF SIGN PERMIT - 800 FAIRVIEW ROAD - KENTUCKY FRIED CHICKEN

8. Consideration was given to a motion approving a sign permit for an identification sign at 800 Fairview Road.

Mayor Bissette said Kentucky Fried Chicken has requested a sign permit to erect an identification sign at 800 Fairview Road advertising "Kentucky Fried Chicken". This sign requires approval of City Council pursuant to the zoning ordinance in that the sign will be situated closer than 600' of a limited access highway. This sign permit was considered at the November 19, 1985 meeting and action was postponed until November 26, 1985. On November 26, 1985, at the request of the owners, action was postponed until December 10, 1985.

Verl Emrick, Director of Planning, said the sign permit meets all the requirements of the Zoning Ordinance. However, this sign permit requires approval of City Council pursuant to the Zoning Ordinance in that the sign will be situated closer than 600' of a limited access highway.

Harold Jackson, representing Kentucky Fried Chicken, spoke in support of the approval of the sign permit. He said it was very important for the sign to be visible from the interstate.

Councilman Price expressed concern about "cluttering" the area with signs in and around the shopping center.

Councilman Michalove said the sign permit would be within the maximum height of 40 feet, and in his opinion, businesses need to advertise. He said Council could, in the future, place limitations on signs in shopping centers.

Councilman Michalove moved for the approval of the sign permit at 800 Fairview Road for Kentucky Fried Chicken. This motion was seconded by Councilman Tisdale.

Councilman Boland requested that the City staff present to members of Council existing material on billboard sign ordinances.

Mayor Bissette read the following letter from Quality Forward:

RESOLUTION NO. 85-224 - RESOLUTION AUTHORIZING THE SALE OF PROPERTY ACQUIRED BY THE COUNTY OF BUNCOMBE PURSUANT TO TAX FORECLOSURE

7. Consideration was given to a resolution authorizing the sale of property acquired by the County of Buncombe pursuant to tax foreclosure.

Mayor Bissette said the City and County entered into an Agreement November 5, 1984, to set forth the responsibilities of the City and County with regard to the prior responsibilities of the Buncombe County Board of Tax Supervision. This resolution authorizes the sale of tax lots by the County of Buncombe at a price not less than the current tax valuations. These tax lots are owned jointly by the City and the County, and they are land that have been foreclosed upon for failure to pay taxes. The County, for itself and as agent for the City, is undertaking to sell these lots, and our agreement with them requires that they have City approval prior to selling any of the lots within the City limits. He said revenue to the City would be approximately 50% of the current tax valuations of the lots sold.

Mayor Bissette said members of Council were previously furnished copies of the resolution, and it would not be read in its entirety unless there was a specific request to do so.

Upon motion of Vice-Mayor Frank, seconded by Councilman Price, Resolution No. 85-224 was unanimously adopted.

Complete text of Resolution No. 85-224 will be found in Resolution Book No. 15 at Page 349-365.

RESOLUTION NO. 85-225 - RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF ASHEVILLE TO ENTER INTO A CONTRACT FOR STATE SENIOR CITIZEN CENTER FUNDS

7. Consideration was given to a resolution authorizing the Mayor of the City of Asheville to enter into a contract for State Senior Citizen Center Funds.

Mayor Bissette said the North Carolina Department of Human Resources, Division of Aging, has a program whereby grants are available for acquisition or renovation of Senior Citizen Centers. The City has demonstrated its concern for its senior citizens by developing and operating the Senior Opportunity Center. The Parks, Recreation and Public Facilities Department and the Buncombe County Energy Commission have developed plans for a Solar Sun Space to be added on to the Senior Opportunity Center and has obtained funds for this purpose totaling $15,000. This resolution will authorize the Mayor to enter into an agreement between the City and Land-of-Sky Regional Council for use of these funds. He said of the total grant ($28,500), 53% will be furnished by the Federal and State ($15,000) and 47% will be furnished by the City. The 47% provided by the City will come from labor by the Park Maintenance Division ($8,500) and from the Alternative Energy Commission ($5,000).

Ray Kisiah, Director of Parks and Recreation, said this would provide for a solor sun space to be added to the Senior Opportunity Center.

RESOLUTION NO. 85-226 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE ON BEHALF OF THE CITY OF ASHEVILLE A MEMORANDUM OF UNDERSTANDING BY AND BETWEEN THE CITY OF ASHEVILLE AND SUNBELT HISTORIC PROPERTIES LIMITED PARTNERSHIP FOR A REDEVELOPMENT PROJECT IN THE WALL STREET AREA

9. Consideration was given to a resolution authorizing the Mayor to execute on behalf of the City of Asheville a Memorandum of Understanding by and between the City of Asheville and Sunbelt Historic Properties Limited Partnership for a Redevelopment Project in the Wall Street Area.

Mayor Bissette said Sunbelt Historic Properties Limited Partnership desires to undertake a redevelopment project for the Wall Street area. The City desires to enable parking improvements for the project area and to provide for certain street and site improvements in connection with the project. Sunbelt Historic Properties Limited Partnership and the City have agreed to the terms and conditions of a MOU setting forth the responsibilities of each party with respect to the redevelopment project.

Bill Smith, President of Southeastern Historic Properties, and developer of the project being Sunbelt Historic Properties Limited Partnership, explained the proposal for the redevelopment of Wall Street. He said the proposal involves 8.4 million in construction cost and that an additional $900,000 for street improvements, lighting, paving, tree plantings and other improvements associated with the parking deck. He said the four-story deck will be built with 350 spaces, but will be designed to accommodate additional levels in the future, if necessary. He said the deck will be built on the west end of Wall Street, with three access points and one exit.

Mayor Bissette summarized the contents of the Memorandum of Understanding. He said the Memorandum of Understanding is a result of at least two years of negotiations.

Mayor Bissette explained the financing for the Wall Street proposal.

Councilman Tisdale commended the developer for their plans, but said he was uncomfortable with some of the financial aspects of the parking garage and would be casting a negative vote.

Councilman Boland said he had reservations about some of the details of the project; however, he was pleased that the project is progressing. He said even if the proposal was not accepted, the City of Asheville would still have to provide parking and street improvements in the area with or without the project.

Councilman Price agreed with comments made by Councilman Boland.

Councilman Frank said studies have shown the Wall Street area is vital to downtown revitalivation.

Councilman Michalove said he felt the project is needed for downtown revitalization.

December 10, 1985

Mayor W. Louis Bissette, Jr.
City of Asheville
P. O. Box 7148
Asheville, N. C. 28807

Dear Lou:

Concerning the placement of signs for River Ridge Colonel Sanders Restaurant, I would like to state that this area is located adjacent to an I-240 beautification project that we plan to implement in Spring, 1986.

For this reason we are very interested in keeping signage on I-240 to a minimum and placing emphasis on landscaping and other improvements. We suggest a sign listing all tourist-related businesses be placed on the highway at that exit. Information signs are called "Logo" signs because they use identifying logos for each business (as you have seen in Virginia).

Our plan is to plant trees in the median strip from the beginning of I-240 to Chunns Cove. This tree planting, combined with the landscaping already completed by the Department of Transportation, will welcome visitors and improve the environment of East Asheville. We planned this in response to concerns voiced about the entrances to Asheville. We are in the process of planting at all the entrances into the City.

Thank you for considering limitation of signs along I-240.

Sincerely,

Susan Mayer
Executive Director

enc.: Letter to Marie Colton concerning "Logo" signs

Councilman Price said she felt shopping centers need "Logo" signs to identify all businesses in a shopping center.

Mayor Bissette said he was also concerned about the signs cluttering the entrances to the City, however, he realized the importance of businesses needing to advertise.

Barry Olen and Keith Thompson, spoke relative to Council's need to study the sign restrictions in the City of Asheville.

On a voice vote, Councilman Michalove's motion passed on a 4-3 vote, with Vice-Mayor Frank, Councilman Price, and Councilman Boland voting "no".

Upon motion of Councilman Boland, seconded by Councilman Frank, Resolution No. 85-227 passed on a voice vote of 6-1, with Councilman Tisdale "no".

Complete text of Resolution No. 85-227 will be found in Resolution Book 15 at Page 369 and 370.

MOTION RELATIVE TO USE OF UDAG LOAN REPAYMENTS TO FUND DOWNTOWN PROJECT

11. Consideration was given to a motion relative to use of UDAG loan repayments to fund downtown project.

Mayor Bissette said this motion will direct the City Manager to identify and earmark specific UDAG repayments to be used to fund downtown redevelopment, and that a budget ordinance be submitted to Council appropriating said repayments to the Rankin Street Parking Garage and the Wall Street Redevelopment Project.

Councilman Michalove moved that, based on the funding commitments that have been made with regard to UDAG loan repayment funds, including the commitment today for the Wall Street Project, the Asheville City Council herewith places a moratorium on the use of these funds for any other projects until such time as the projects committed to are completed, reduced in scope, or eliminated from further consideration, to the extent that such funds are permitted by the Federal government to be used for these purposes. He said this motion would also direct the City Manager to prepare a budget amendment appropriating the repayments to the Rankin Street Parking Garage and the Wall Street Redevelopment Project. This motion was seconded by Councilman Bratton and carried on a voice vote of 6-1, with Councilman Tisdale voting "no".

COMMENDATION OF ZACK ALLEN RELATIVE TO ARTICLE IN ASHEVILLE CITIZEN TIMES ON HISTORY OF RIVERSIDE CEMETERY

Councilman Tisdale commended Zack Allen, with the Asheville Citizen Times, on the fine article he wrote relative to the history of the Riverside Cemetery.

CLAIMS - ANN JOYCE (METER READER) - THE MARKET PLACE (WATER) - MARY RIDDLE (STREETS) - LOUIS MONGIOVI (METER READER) - MEL GADDY (SANITATION) - OLIVIA BLAIR (SEWER)

The City Manager presented claims received from Ann Joyce (Meter Reader) - The Market Place (Water) - Mary Riddle (Streets) - Louis Mongiovi (Meter Reader) - Mel Gaddy (Sanitation) and Olivia Blair (Sewer).

Mayor Bissette referred the claims to the Corporation Counsel for investigation and recommendation.

LAWSUIT - HARRY BRUMMER

The City Manager said a lawsuit naming the Board of Adjustments of the City of Asheville as a defendant was filed on November 27, 1985, involving Harry Brummer (prayer for damages for breach of contract and interference of defendant and request for injunction and mandamus to issue a building permit).

Upon inquiry of Ralph Bishop, Mayor Bissette noted that the Asheville City Council believes the project is in conformance with all related State laws.

Barry Olen, property owner on Wall Street, said he had mixed feelings relative to the project. He expressed concern that the changes will result in some of the tenants on Wall Street losing their businesses or not being able to afford higher rents. He also said he was concerned about the developer's proposal to close Wall Street to vehicular traffic during business hours, a plan the merchants say will result in less business and less accessibility to other parts of the downtown.

Mayor Bissette said the issue of closing or opening Wall Street is not addressed in the Memorandum of Understanding and is still open for discussion.

Katherine Grooms, a tenant on Wall Street, also spoke relative to her concerns about the rents being raised and the closing of Wall Street.

Tom Stietler, spoke relative to the project, stating that he was enthused about the new parking garage being downtown.

Mayor Bissette said members of Council were previously furnished copies of the resolution, and it would not be read in its entirety.

Upon motion of Councilman Bratton, seconded by Councilman Michalove, Resolution No. 85-226 passed on a vote 6-1, with Councilman Tisdale voting "no".

Complete text of Resolution No. 85-226 will be found in Resolution Book No. 15 at Page 367 and 368.

RESOLUTION NO. 85-227 - RESOLUTION REQUESTING THE HOUSING AUTHORITY OF THE CITY OF ASHEVILLE TO CONSIDER AND TO ADOPT A RESOLUTION OF INTENT TO ISSUE URBAN REDEVELOPMENT BONDS IN AN AMOUNT NOT TO EXCEED TEN MILLION DOLLARS FOR THE WALL STREET AREA PROJECT

10. Consideration was given to a resolution requesting the Housing Authority of the City of Asheville to consider and to adopt a resolution of intent to issue Urban Redevelopment Bonds in an amount not to exceed Ten Million Dollars for the Wall Street Area Project.

Mayor Bissette said Sunbelt Historic Properties Limited Partnership ("Sunbelt") has negotiated a Memorandum of Understanding with the City which provides for Sunbelt to undertake a redevelopment project in the Wall Street area. Sunbelt desires to fund a portion of the total cost of the project by the issuance of urban redevelopment bonds as authorized in Article 22 of Chapter 160A of the North Carolina General Statutes. Sunbelt shall assign its rights under the MOU to Wall Street Limited Partnership, whose name shall be used in the issuance of the bonds. The City Council desires the Housing Authority, acting as a redevelopment commission pursuant to Article 22 of Chapter 160A of the North Carolina General Statutes, to issue the redevelopment bonds to fund a portion of the costs for this project.

Tuesday - December 17, 1985 - 4:00 p.m.

Regular Meeting

Present: Mayor Louis Bissette, Presiding; Vice-Mayor Mary Lloyd Frank; Councilmen Wilhelmina Bratton, Norma Price, Walter R. Roland, Kenneth M. Michalove, and George Tisdale; Corporation Counsel William F. Slawter; Acting City Manager William F. Wolcott, Jr.; and Deputy City Clerk Carol Hensley.

Absent: None

INVOCATION

The invocation was given by Councilman Tisdale.

APPROVAL OF THE MINUTES - DECEMBER 10, 1985 MEETING

1. Approval of the minutes of the December 10, 1985 meeting.

Mayor Bissette noted that the minutes should be amended to include that Corporation Counsel William F. Slawter was absent for the December 10, 1985, meeting, and that Patsy Brison was Acting Corporation Counsel at the meeting.

Mayor Bissette announced the approval of the minutes as amended.

PUBLIC HEARING - REDEVELOPMENT PLAN AMENDMENT FOR THE WOODBERRY APARTMENTS

2. A public hearing was held relative to a redevelopment plan amendment for the Woodberry Apartments.

Mayor Bissette opened the public hearing at 4:10 p.m.

The Deputy City Clerk presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Mayor Bissette said the proposed amendment would add provisions to the plan for the issuance of urban development bonds for the making of loans to redevelopers to finance the acquisition and construction of residential units within the East End/Valley Street Redevelopment area.

Larry Holt, Deputy Executive Director of the Housing Authority of the City of Asheville, said this would be the first amendment to the East End/Valley Street Community Redevelopment Plan, approved by the Asheville City Council May 27, 1978. He said under the North Carolina General Statutes the Housing Authority is enabled to issue redevelopment bonds for land and construction of housing. He said bonds would be issued for the construction of an apartment complex consisting of 164 units on Alexander Drive. He said all proceeds from the bonds would be available to Poff Construction Company for construction of the apartment complex. He said in exchange for the tax exempt bonds, the owners of the complex would set aside 20% of the units for low and moderate income families.

Upon inquiry of Councilman Tisdale, Mr. Holt said there would be no expense to the City of Asheville for issuing the redevelopment bonds.

Mayor Bissette referred the lawsuit to the Corporation Counsel for investigation and recommendation.

RESOLUTION NO. 85-228 - RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF ASHEVILLE TO SIGN AN AGREEMENT WITH SIGHT AND SOUND, INC. FOR PROFESSIONAL SERVICES FOR ALTERNATIVES FOR ASHEVILLE COMMITTEE

Consideration was given to a resolution authorizing the Mayor of the City of Asheville to sign an agreement with Sight and Sound, Inc. for professional services for Alternatives for Asheville Committee.

Verl Emrick, Director of Planning, said this contract would allow Sight and Sound, Inc. to do a video production for presentation to the public relative to information from the Alternatives for Asheville Committee. He said the cost of the video production would be $2,200.

Upon motion of Councilman Price, seconded by Councilman Boland, Resolution No. 85-228 was unanimously adopted.

Complete text of Resolution No. 85-228 will be found in Resolution Book No. 15 at Page 371.

LETTER OF APPRECIATION TO JUDGE C. WALTER ALLEN

Councilman Price requested that a Letter of Appreciation be sent to Judge C. Walter Allen, signed by all Council members, expressing their appreciation for his participation in the swearing in ceremonies on December 3, 1985.

RALPH BISHOP - LOTTERY SALES IN THE CITY OF ASHEVILLE

Ralph Bishop again spoke to members of Council relative to the lottery sales in the City of Asheville.

ADJOURNMENT TO WORK SESSION AND EXECUTIVE SESSION

Councilman Tisdale moved to adjourn the meeting to a work session and executive session. This motion was seconded by Councilman Price and carried unanimously.

MAYOR

CITY CLERK

Verl Emrick, Director of Planning, said due to technical problems, it would be his recommendation that Council continue the public hearing until January 7, 1986.

Councilman Tisdale moved to continue the public hearing relative to the Group Development Review for the Buck Cove Development until January 7, 1986, without further advertisement. This motion was seconded by Councilman Boland and carried unanimously.

PUBLIC HEARING - AMENDING THE ZONING ORDINANCE - CREATING A NEW R2-A RESIDENTIAL DISTRICT OR AMENDING THE EXISTING R-2 RESIDENTIAL DISTRICT

4. A public hearing was held relative to amending the Zoning Ordinance by creating a new R2-A Residential District or amending the existing R-2 Residential District.

Mayor Bissette said the Planning and Zoning Commission, at a meeting held November 6, 1985, considered the request of the Haw Creek Community Association, Inc., that the Zoning Ordinance be amended by creating a new R2-A Residential District. After discussion, the Commission voted to recommend to City Council that the request be denied and that the alternate recommendation of staff to amend the current R-2 Residential District be denied. The Haw Creek Community Association, Inc., has requested that Council hold a public hearing relative to this request.

Mayor Bissette opened the public hearing at 4:25 p.m.

The Deputy City Clerk presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said after several months of discussion by the Planning and Zoning Commission relative to the creation of a new zoning district to be R2-A, or a modification of the existing R-2 Low Density Residential District, and after talking with the Alternatives for Asheville Committee, the Commission recommended that no change be made in the existing Zoning Ordinance just to regulate the Haw Creek Valley. He said the Haw Creek Valley is presently zoned R-2, which would allow 10 units per acre. He said the Haw Creek Community Association, Inc., has requested that Council amend the Zoning Ordinance to create a new district, R2-A, or to amend the existing R-2 district to provide for four units per acre in order to protect the character of their neighborhood.

Mr. Emrick said in the very near future, Council would be dealing with growth patterns and balanced property rights for all the City, through the Alternatives for Asheville Committee's recommendations.

Mr. Emrick showed members of Council and the audience a chart showing a trend toward multi-family units in Asheville. He said Council had several alternatives, including the extension of the existing moratorium in the Haw Creek Valley for multi-family dwellings. He said Council has the option of approving the proposal from the Haw Creek Community Association to create an R2-A district, which would allow four units per acre; or modifying the existing R-2 Low Density Residential District to include six units per acre. He said changing the existing 10 units per acre to six units per acre would not have an adverse effect on the growth pattern in the Haw Creek area.

Upon inquiry of Ralph Bishop, it was noted that no additional costs would be imposed upon the City for water, sewer, or street improvements.

Mayor Bissette closed the public hearing at 4:16 p.m.

RESOLUTION NO. 85-229 - RESOLUTION ADOPTING AND APPROVING AMENDMENT NO. 1 TO THE EAST END/VALLEY STREET COMMUNITY IMPROVEMENT REDEVELOPMENT PLAN

Mayor Bissette said copies of the resolution were previously presented to members of Council, and it would not be read in its entirety unless there was a specific request to do so.

Upon motion of Councilman Price, seconded by Councilman Boland, Resolution No. 85-229 was unanimously adopted.

Complete text of Resolution No. 85-229 will be found in Resolution Book No. 15 at page 402 and 403.

RESOLUTION NO. 85-230 - RESOLUTION APPROVING THE ISSUANCE BY THE HOUSING AUTHORITY OF THE CITY OF ASHEVILLE OF URBAN DEVELOPMENT BONDS IN A PRINCIPLE AMOUNT NOT TO EXCEED SIX MILLION DOLLARS

Mayor Bissette said members of Council were previously furnished copies of the resolution, and it would not be read in its entirety unless there was a specific request to do so.

Upon motion of Vice-Mayor Frank, seconded by Councilman Price, Resolution No. 85-230 was unanimously adopted.

Complete text of Resolution No. 85-230 will be found in Resolution Book No. 15 at page 404 and 405.

PUBLIC HEARING - GROUP DEVELOPMENT REVIEW - BUCK COVE DEVELOPMENT

3. A public hearing was held relative to a group development review for the Buck Cove Development.

Mayor Bissette said the Planning and Zoning Commission, at a meeting held November 13, 1985, reviewed the site plan of the proposed Buck Cove Development (Townhouses) to be located on Old Chunns Cove Road. The site plan was prepared by Dobson Engineering and Associates for Mr. Larry Buckner, Developer, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of the site plan to City Council subject to the following conditions: 1) that the street be constructed to an average grade of 15% and a maximum grade of 20%; 2) that the project comply with the Erosion Control Ordinance and that the final plans be shown with 2' contours instead of 5'.

Mayor Bissette opened the public hearing at 4:20 p.m.

The Deputy City Clerk presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Councilman Tisdale commended the Haw Creek Community Association for trying to keep the character of their neighborhood. He said he could support the density level requirement of four units per acre.

Mayor Bissette said he did not feel that changing the requirement of 10 units to six units would adversely affect the City of Asheville.

Councilman Michalove said he felt the Buncombe County Board of Commissioners should pursue extending the extra territorial zoning jurisdiction to cover the entire Haw Creek area.

On a roll call vote of 4-3, Ordinance No. 1559 passed on first reading, with Councilmen Tisdale, Bratton, and Michalove voting "No."

ORDINANCE NO. 1560 - AN ORDINANCE AMENDING ORDINANCE NO. 1530 EXTENDING THE MORATORIUM LIMITING DEVELOPMENT IN THE HAW CREEK AREA

6. A public hearing was held relative to extending the present moratorium in the Haw Creek area.

Mayor Bissette said on August 20, 1985, Council adopted Ordinance No. 1530 imposing a moratorium on property in the Haw Creek Area for the issuance of any zoning or building permits and consideration of any request for group development review by the Planning and Zoning Commission. This moratorium expires on January 1, 1986, and a request has been received for Council to consider extending the moratorium for an additional ninety (90) days.

Mayor Bissette opened the public hearing at 5:17 p.m.

The Deputy City Clerk presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Frank Martin, of Haw Creek, supported the continuation of the present moratorium in the Haw Creek area.

Mr. Wickman, of Haw Creek, requested that the City staff look into the curb situation on Beverly Road.

Mayor Bissette closed the public hearing at 5:23 p.m.

Councilman Michalove moved for the adoption of Ordinance No. 1560. This motion was seconded by Councilman Tisdale.

On a roll call vote of 7-0, Ordinance No. 1560 passed on first reading.

Councilman Bratton moved to suspend the rules and proceed to the second reading of Ordinance No. 1560. This motion was seconded by Councilman Michalove and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1560 passed on second reading.

Councilman Michalove moved to suspend the rules and proceed to the third and final reading of Ordinance No. 1560. This motion was seconded by Councilman Frank and carried unanimously.

Upon inquiry of Councilman Bratton, Mr. Barrick said the Planning and Zoning Commission felt that an amendment to the Zoning Ordinance at this time would be a "stop gap" approach to the Alternatives for Asheville Comprehensive Plan currently being researched and developed.

Councilman Boland said he felt there was a big separation of allowable units per acre between the R-1 District and the R-2 District. He said the Alternatives for Asheville Committee is currently considering "clustering" of units in the City of Asheville, and Council should await their recommendations.

Ed Dyson, representing the Haw Creek Community Association, Inc., said the area residents are having problems with the restrictions in the R-2 and R-1 Residential Districts. He said large complexes have an impact on neighborhoods. He said their recommendation would be to reduce the density to four units per acre, which would allow for orderly growth without a large impact. He said the present infrastructure of Haw Creek could be addressed with this type of orderly growth. He said the Haw Creek area has winding narrow roads, water and sewer problems, and the proposed sewer line of 15" will not be adequate to alleviate the problems the citizens are having in the Haw Creek area. He said the association would like for Council to amend the Zoning Ordinance to include four units per acre, but could live with six units per acre. He also requested that Council amend the Group Development portion of the Zoning Ordinance to provide that Council review all developments in excess of two units. He also requested that members of Council contact the Buncombe County Commissioners to request that they extend their zoning jurisdiction to cover the entire valley of Haw Creek.

Bill Tennant, of Haw Creek, said the area residents would like to keep the Haw Creek area a basic residential area.

John Barnett, of Haw Creek, also spoke relative to controlled growth in the Haw Creek area.

Frank Martin, of Haw Creek, said area developers take advantage of legal "loopholes" with the current Group Development regulations. He requested that members of Council extend the current moratorium to prohibit developers from taking advantage of the area before the enforcement and adoption of a new Comprehensive Plan.

Mayor Bissette closed the public hearing at 5:10 p.m.

ORDINANCE NO. 1559 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED (WORDING AMENDMENT - SECTION 30-5-3 - R-2 LOW DENSITY RESIDENTIAL DISTRICT)

Councilman Price moved to approve Ordinance No. 1559 amending the development standards under Section 30-5-3(C) development standards to allow for six units as a maximum density dwelling units per acre. This motion was seconded by Councilman Boland.

Councilmen Michalove, Bratton, and Tisdale expressed concerns relative to amending the Zoning Ordinance for the R-2 Low Density District in that it would affect all R-2 zones in the City, even though studies have not been made to determine if the new density requirements are appropriate for all those areas. It was noted that there was a big spread between the R-2 zoning and the R-6 zoning for density dwelling units per acre.

Complete text of Ordinance No. 1562 will be found in Ordinance Book No. 10 at page 351.

AUTHORIZATION FOR BONUS TO BE PAID TO RETIRED MEMBERS AND SURVIVORS OF THE ASHEVILLE POLICEMEN'S PENSION AND DISABILITY FUND

8. Consideration was given to a motion relative to City Council authorizing that a bonus be paid to the retired members and survivors of the Asheville Policemen's Pension and Disability Fund as of December 17, 1985.

Mayor Bissette said this motion will approve distribution of a one-time bonus to retirees/survivors of the Policemen's Pension and Disability Fund.

Councilman Bratton moved that City Council authorize a bonus to be paid to the retired members and survivors of the Asheville Policemen's Pension and Disability Fund as of December 17, 1985, according to an approved formula. This motion was seconded by Councilman Tisdale and carried unanimously.

ORDINANCE NO. 1558 - AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE BY ADDING A NEW SECTION 30-3-18 ENTITLED "PROTECTED MOUNTAIN RIDGES"

9. Consideration was given to the second and third reading of Ordinance No. 1558, an ordinance amending Chapter 30 of the Code of Ordinance of the City of Asheville to expand the coverage of the Mountain Ridge Protection Act of 1983 to prohibit tall buildings on all ridges 500 feet above the adjacent valley floor.

Mayor Bissette said at the regular meeting of the Planning and Zoning Commission held on November 13, 1985, the Commission recommended to Council the adoption of an Ordinance amending Chapter 30 of the Code of Ordinances of the City of Asheville to expand the coverage of the Mountain Ridge Protection Act of 1983 to prohibit tall buildings on all ridges 500 feet above the adjacent valley floor. This ordinance passed on first reading at the December 10, 1985, meeting.

On a roll call vote of 7-0, Ordinance No. 1558 passed on second reading.

Vice-Mayor Frank moved to suspend the rules and proceed to the third and final reading of Ordinance No. 1558. This motion was seconded by Councilman Boland and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1558 passed on third and final reading.

Complete text of Ordinance No. 1558 will be found in Ordinance Book No. 10 at page 343, 344, and 345.

On a roll call vote of 7-0, Ordinance No. 1560 passed on third and final reading.

Complete text of Ordinance No. 1560 will be found in Ordinance Book No. 10 at page 348 and 349.

ORDINANCE NO. 1561 - BUDGET ORDINANCE AMENDMENT ESTABLISHING BUDGET FOR HARVEST HOUSE AND SENIOR OPPORTUNITY CENTER FEDERAL GRANTS

6. Consideration was given to a budget ordinance amendment establishing a budget for federal grants at the Harvest House and Senior Opportunity Center.

Mayor Bissette said this budget ordinance will establish a budget to administer federal grants received from the Senior Citizen Fund for Harvest House Senior Center and Senior Opportunity Center. A total of $9,000 was received for Harvest House deck construction and equipment purchases and a total of $15,000 was received for the construction of the Senior Opportunity Center's solar space. There will be a total cost of $24,000 to make improvements to the existing facilities at these locations.

Councilman Tisdale moved for the adoption of Ordinance No. 1561. This motion was seconded by Vice-Mayor Frank.

On a roll call vote of 7-0, Ordinance No. 1561 passed on first and final reading.

Complete text of Ordinance No. 1561 will be found in Ordinance Book No. 10 at page 350.

ORDINANCE NO. 1562 - BUDGET ORDINANCE AMENDMENT FOR SOUTH PACK SQUARE STREETSCAPE IMPROVEMENTS

7. Consideration was given to a budget ordinance amendment for South Pack Square Streetscape Improvements.

Mayor Bissette said this budget amendment will appropriate funds for South Pack Square Streetscape costs overruns. There will be a cost of $28,000 available from CDBG contingency which contains a balance of $56,955.

Marvin Vierra, with the Community Development Department, said the South Pack Square Streetscape Project has encountered a problem with soil compaction that has resulted in a cost overrun and a delay in the completion of the project. He said this appropriation will allow for the correction to the soil problem and allow paving and landscaping to continue with amendments to the plan.

Upon inquiry of Ralph Bishop, it was noted that federal funds were being used for the South Pack Square Streetscape Project.

Councilman Price moved for the adoption of Ordinance No. 1562. This motion was seconded by Vice-Mayor Frank.

On a roll call vote of 7-0, Ordinance No. 1562 passed on first and final reading.

RESOLUTION NO. 85-233 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A REDEVELOPMENT STUDY CONTRACT WITH THE FIRM OF BUTLER ASSOCIATES, P.A.

Mayor Bissette read a resolution which would authorize a contract with Butler Associates, P.A., in the amount of $1,709.25 to conduct a portion of the studies in the downtown relative to designation of redevelopment project areas.

Upon motion of Councilman Price, seconded by Councilman Frank, Resolution No. 85-233 was unanimously adopted.

Complete text of Resolution No. 85-233 will be found in Resolution Book No. 15 at page 408.

CLAIMS - A. A. HILL (SANITATION) - TIMOTHY GALLAGHER (WATER) - MARGARET BURGIN (WATER) - FUTON DESIGNS (WATER/STREETS)

The Acting City Manager presented claims received from A. A. Hill, Timothy Gallagher, Margaret Burgin and Futon Designs.

Mayor Bissette referred the claims to the Corporation Counsel for investigation and recommendation.

RALPH BISHOP - SEEKING REDRESS TO MEMBERS OF COUNCIL - LOTTERY PEDDLERS

Ralph Bishop again spoke to members of Council relative to his difficulty in seeking redress from members of Council, and relative to lottery sales in the City of Asheville.

PRESENTATION BY ASHEVILLE CABLEVISION

Mr. Michael McPhee, Vice President of Operations for Daniels and Associates, Inc., presented a presentation to the Asheville City Council relative to improvements being made by Asheville Cablevision to its subscribers. He said these improvements are results of a letter from the City of Asheville, dated October 22, 1985.

The verbatim presentation is attached as part of these minutes.

ADJOURNMENT

Councilman Price moved to adjourn the meeting to a work session. This motion was seconded by Councilman Boland and carried unanimously.

MAYOR

CITY CLERK

RESOLUTION NO. 85-231 - RESOLUTION AUTHORIZING THE MAYOR TO SIGN A CONTRACT ON BEHALF OF THE CITY OF ASHEVILLE WITH TERRY BROTHERS CONSTRUCTION COMPANY, INC., FOR THE PROJECT KNOWN AS BUSBEE VIEW ROAD/SWEETEN CREEK ROAD EIGHT INCH SEWER LINE CONTRACT NUMBER E-027/W-011.85

10. Consideration was given to a resolution authorizing the Mayor to sign a contract on behalf of the City of Asheville with Terry Brothers Construction Company, Inc., for the project known as Busbee View Road/Sweeten Creek Road Eight Inch Sewer Line Contract Number E-027/W-011.85.

Mayor Bissette said bids were solicited for the project known as the Busbee View Road/Sweeten Creek Road Eight Inch Sewer Line. The project includes the installation of approximately 1875 linear feet of eight inch (8") diameter sewer pipe, ten (10) manholes and associated appurtenances. Terry Brothers Construction Company, Inc., of Leicester, North Carolina was the lowest responsible bidder. Total cost for this project is $36,515.20. This is budgeted in the Capital Construction (33) Fund.

Upon motion of Councilman Price, seconded by Councilman Michalove, Resolution No. 85-231 was unanimously adopted.

Complete text of Resolution No. 85-231 will be found in Resolution Book No. 15 at page 406.

SCHEDULING PUBLIC HEARING - AMENDMENT TO GROUP DEVELOPMENT SECTION OF THE ZONING ORDINANCE FOR JANUARY 7, 1986

Councilman Price moved that a public hearing be scheduled relative to amending the Zoning Ordinance, Group Development Section, Article 6, for January 7, 1986. This motion was seconded by Councilman Michalove and carried unanimously.

EXTENSION OF OPTION FOR SALE OF PROPERTY TO WESTERN NORTH CAROLINA AGRICULTURAL CENTER AT THE AIRPORT

Councilman Tisdale moved that the option previously granted to the State of North Carolina with regard to the sale or lease of fifty (50) acres of land adjoining the Western North Carolina Agricultural Center be extended through the 31st day of Janaury, 1986. This motion was seconded by Councilman Price and carried unanimously.

RESOLUTION NO. 85-232 - RESOLUTION EXTENDING A SALES AGREEMENT FOR THE SALE OF APPROXIMATELY 16.4 ACRES OF CITY-OWNED PROPERTY LOCATED EAST OF THE INTERSECTION OF FARMING BRIDGE AND AIRPORT ROAD TO AMERICAN DIECASTING ENGINEERING, INC., (RONAL WHEELS)

Mayor Bissette read a resolution authorizing the execution of an agreement extending through March 31, 1986, the offer to purchase a 16.4 acre tract of land by Ronal Wheels.

Upon motion of Councilman Bratton, seconded by Councilman Tisdale, Resolution No. 85-232 was unanimously adopted.

Complete text of Resolution No. 85-232 will be found in Resolution Book No. 15 at page 407.

City . . . (and) to maintain that system in reasonable repair and working order and provide adequate facilities for such maintenance" in the following respects:

1. Excessive service interruptions and outage problems exist;
2. Poor signal quality and reception exists; and
3. Asheville Cablevision has failed to provide adequate service responce to the above mentioned problems.

What I would like to do today is address each of these issues and to share with you the steps we've taken to address each of them. Additionally, we have gathered survey data to support our contention that we deserve the cable franchise for the City of Asheville.

As Tom Marinkovich indicated to you in October, service outages are caused by uncontrollable or controllable events. As a reminder, uncontrollable events are lightning or storm damage, utility poles being knocked down by vehicles or loss of electrical power to our equipment. The controllable circumstances involve either equipment failure that could have been anticipated or human error. Both of these types of failures can affect an individual customer or entire areas involving hundreds of homes. On December 3rd, when the temperature suddenly dropped 40 degrees, a fuse was blown that took the entire system down for 45 minutes. Problems like that will occur at times, and are common to all cable systems. I intend to share with you those steps

Presentation
to
Asheville City Council
By
Michael P. Mc Phee
Vice President, Operations
Daniels and Associates, Inc.
December 17, 1985

Good afternoon. My name is Michael Mc Phee, and I am the Vice President of Operations for Daniels and Associates, the Company responsible for the management of Asheville Cablevision. I appreciate being given the opportunity to appear before you today and report on the progress and steps taken by our Cable Company in response to the letter from the City dated October 22, 1985. I hope to demonstrate to you that we have been responsive to the concerns raised in that letter. I will ask that if you become convinced, as I am, that we have made significant progress toward correcting the problems, that you rescind the default position taken by the City at that time.

I will also make a recommendation to the Council that its Cable Television Commission be continued, with expanded membership, to ensure ongoing communications with the cable company and continued compliance with the terms of our franchise.

As you are aware, Mayor Mc Devitt stated that Asheville Cablevision has failed to "furnish reasonable, adequate and efficient community antenna service to the residents of the

like lightening strikes, and automatic overload short circuit protection, which prevents damage to expensive equipment. These devices will add considerable reliability to the cable system.

Occasionally our underground cable is cut or damaged during construction activities. All of the local utilities participate and cooperate with a company named "ULOCO", Utilities Locating Company, whose job it is to notify those Companies when digging is planned that may cause problems. We have installed a direct phone line and printer and receive instant notices of construction activity that allow us to locate our buried cable before it is damaged.

Controllable circumstances that cause equipment failure are those that could have been anticipated, or human error. We are expanding our technical capabilities in our system in 1986 and we intend to continue the technical training programs that were initiated in the second half of 1985.

To support our view that the service interruptions are less today, I would like to share with you the results of a opinion/attitude survey of Cablevision customers, which was conducted by the research analysts within Daniels corporate marketing department. We attempted to contact all subscribers who attended the three public hearings or completed the City Council questionnaire and complained

we are taking to reduce outages from uncontrollable circumstances.

To reduce lightning damage and damage from "power transients" and "surges," we instituted a program over twelve months ago to improve the grounding for line equipment mounted on poles. To date, we have grounded 460 equipment locations using a highly effective, non-comingling grounding approach. These additional grounds provide a more efficient way to disperse currents induced by lightning strikes and other unwanted electrical currents in our cable plant. This approach exceeds code requirements and is expensive, but we feel it will be worth it to achieve increased reliability. An additional 2806 locations are scheduled to be completed during 1986 at the rate of 230 locations per month.

We have analyzed our outages, and fully 35 percent are directly related to interruptions of service from the power company. We continue to install backup power supplies throughout the system to provide backup power to the cable system during short term power interruptions. There are presently 19 Lectro stand-by power supplies operational system wide. We will put an additional 39 units in service during 1986. These units are state-of-the-art equipment with enhanced features such as heavy duty surge protection, which reduces outages caused by sudden shocks to the system

Mr. Warren L. Braun, P.E., president and founder of Comsonics, Inc., a technical services firm in the cable television industry. Mr. Braun, a professional engineer, is a graduate electrical engineer with 44 years of experience in the radio and television broadcast industry, and is well recognized as an expert in the cable television industry. He was instrumental in the establishment of a scientific method of grading television picture quality known as the Taso scale. Mr. Braun selected at random the households of 35 subscribers who had complained to the City last May. This process resulted in statistically valid signal quality sampling throughout our system, including the extremities. He observed the television picture quality under controlled conditions at these 35 locations using a van and a 100 foot long cable drop. Mr. Braun's complete report is attached to this document for your review, but basically he felt that the picture quality throughout our system was good to excellent. Should any of you desire further information from Mr. Braun, he would be happy to discuss his experience in Asheville with the Council.

Asheville Cablevision has taken several steps to improve customer service response. While back in May of 1985, the case could have been made that Asheville Cablevision was providing a substandard level of customer service, through busy phone lines, discourtesy, or poorly answered questions by our customer service representatives, today there is

about service interruptions, poor picture quality, or inadequate service response. We were successful in reaching by telephone 1,122 of the approximately 1,800 people who completed City survey forms. In all cases, we asked those people if we could send them a survey form. Nearly all, 937 of them, agreed and received our written survey document. A total of ~~780~~ 385 survey forms were returned to us and the data I am about to present is based a statistically reliable sample of that number. I should point out that statistically this size group enables us to predict with +/- 6% accuracy. These results from our severest critics would indicate that Asheville Cablevision has made significant progress in reducing service interruptions and outages.

We also conducted a telephone survey of 400 subscribers selected at random to obtain their views on these same subjects. This survey revealed that since July 1, those respondents who reported experiencing outages either "very seldom or not at all" increased from 29% to 53%. We do not intend to rest on our laurels, and we will again spend approximately $1 million in 1986 on new plant and equipment for the cable system to improve reliability.

To evaluate the systems technical condition and signal quality, we retained an independent expert in television broadcasting. Picture quality is a very subjective issue unless dealt with by a professional in the field. We hired

courtesy and commitment to 100 percent subscriber satisfaction.

Let me take a few moments to go into detail on these service points, as well as let you know the results of customer surveys, which provide further evidence of our position.

Prior to December, our hours were 9 a.m. to 5 p.m., and 9 a.m. to 2 p.m. on Saturday. We have significantly expanded those hours so that now our office hours for customer service are 8 a.m. to 8 p.m., Monday through Friday; 9 a.m. to 5 p.m. on Saturday; (technicians and installers until 8 p.m.); and technicians ~~and installers~~ 9 a.m. until 5 p.m. on Sunday. Additionally, we have a duty officer and chief technician on call from 8 p.m. to 8 a.m. every day to deal with customer problems during the time our answering service is handling telephone calls.

We have established an arrangement with the Better Business Bureau and the Mayor's office to notify us immediately of any complaints received by them from our customers. With this information, we are able to respond to dissatisfied customers more quickly.

In May we installed a new telephone system and expanded the number of incoming lines to 10. We have been monitoring the frequency of situations when all of our line are busy,

absolutely no question that for the majority -- indeed the overwhelming majority of residents -- Asheville Cablevision is providing an outstanding level of customer service.

We have appointed a new system general manager, who was the recipient of Daniels' highest management award for customer service in 1985. He has brought to us a renewed commitment to service and leadership for our employees. We have invested considerable resources in an improved telephone system. We've expanded our customer service hours. We created a new position dedicated full-time to resolving special customer service problems which cannot be quickly addressed through our normal procedures. We have publicized a new Customer Care Program and have conducted extensive training and supervision to ensure that all our employees treat our customers with utmost care and respect. Further, we've instituted a policy to check back with all customers receiving installation or service to ensure their complete satisfaction with the quality of our work.

Based upon these concrete, positive actions coupled with research conducted on two separate occasions since the City's hearings to examine our customers' attitudes about service in detail, I am fully confident that customer service response is no longer a point of contention with Asheville Cablevision customers. In fact, we are now receiving high marks for our service response, dedication,

We instituted a policy to call back upon completion of work all customers requiring installation or service orders to make sure the customer is satisfied with the quality of the work performed. If we are unable to reach the customer by telephone, we mail them a post card to obtain their response. Our technicians or installers also leave a pre-paid "customer response card", signed by the individual performing the work. With all new subscribers we leave a information packet that provides useful information about the Cable Company.

We instituted our Customer Care program in August, and have made a very serious effort to communicate with our subscribers and the citizens of Asheville. We have had three live call-in television shows inviting customers to call with any questions or complaints they had with the cable company. As we received those complaints, we dealt with them immediately. We have initiated some locally originated programming to be more responsive to the specific needs of Asheville and Buncombe County. Our Christmas version of Asheville Video Probe is presently showing on the system. This program deals with the support agencies that are available and the services they provide to help the needy here in the Asheville/Buncombe area. I am very proud of this particular production, and I hope all of you have an opportunity to watch it.

preventing a customer from reaching us. I can tell you that in the last two months, we are averaging less than 0.6% of the time per day when all our lines are tied up. Obviously during a major outage our lines light up and some of our subscribers will not be able to get through to us. Fortunately this does not happen frequently. During this same period, we had three outages that lasted a total of 2 hours and 5 minutes, all of an uncontrollable nature. If we exclude these occurances from the above calculation, our lines were completely busy for 0.1% of the time, or approximately 43 seconds per day. I am also pleased to report that during this same time period, our phone was answered on the first or second ring 87% of the time. We have programs underway to inform our customers that we know about the problem and are responding immediately when a major outage occurs, and therefore there is no need to call the cable company. Our survey indicates that those respondents who have tried to reach Cablevision on the telephone since July 1, 1985, ten times as many report that access has gotten better. We instituted cycle billing in October to further even out telephone calls associated with billing questions and reduce peak period traffic.

We created the special position of Customer Service Specialist to deal with customer complaints, and Dot Cordell has been very effective at coordinating our different departments to ensure proper treatment for our customers.

The survey data supports our position that service response has improved. Of the people who responded, four times as many felt our customer service had improved. Roughly three times the number of respondents rated Cablevision either "excellent or good" as opposed to "fair or poor" with respect to providing courteous service.

Asheville Cablevision has been responsive to the concerns raised by the City Council in October. You have the commitment of the President of Daniels & Associates Inc. to provide outstanding cable television service here in Asheville and we will fulfill that obligation. I hope the information presented here today has convinced you that we have made significant progress toward this objective. If so, it is fair for you to rescind the default declaration made in Mayor Mc Davitt's letter of October 22, 1985. We deserve the cable franchise for the City of Asheville, and we will continue to work diligently to earn that privilege.

In my opening remarks, I mentioned the suggestion that the City Council Cable Television Commission be continued. What I would propose for your consideration is the establishment of a committee, including a representative from the City Council, the General Manager of Asheville Cablevision, and two or three prominent local officials. The purpose of this group would be to provide a communication and monitoring vechicle within the community. We believe this group could

During the past seven months, we have actually conducted, at our company's expense, three scientific opinion/attitude surveys to attempt to verify and quantify the positive and negative impressions of our company, outages, signal quality, customer service response and overall performance.

The survey methodology adhered to sound research principles to give us a real picture of our customers' perceptions.

One of the surveys, as I mentioned earlier, was specifically aimed at those people who had taken part in the hearings or City survey, which we have termed "Previously Disgruntled Customers." The results among that group show that almost three of every four customers felt that Asheville Cablevision had improved its overall performance recently.

Better than three out of four rated us as excellent or good on providing courteous service. A majority said our response time was either excellent or good. Nearly two-thirds rated our overall customer service performance as excellent or good. Again, these results come not from the customer base at large, but focused directly on those disgrunted people who raised concerns about our service seven months ago.

Tuesday - January 7, 1986 - 4:00 p.m.

Regular Meeting

Present: Mayor Louis Bissette, Presiding; Vice-Mayor Mary Lloyd Frank; Councilmen Wilhelmina Bratton, Walter R. Roland, Kenneth M. Michalove, Norma T. Price, George M. Tisdale; Corporation Counsel William F. Slawter; Acting City Manager William F. Wolcott, Jr.; and Deputy City Clerk Carol Wensley.

Absent: None.

INVOCATION

The invocation was given by Councilman Norma Price.

APPROVAL OF THE MINUTES - DECEMBER 17, 1985 MEETING

1. Approval of the minutes of the December 17, 1985 meeting.

Mayor Bissette noted that the minutes should be amended on page 309 correcting a typographical error.

Mayor Bissette announced the approval of the minutes as amended.

QUALITY FORWARD - SLIDE SHOW AND AWARDS PRESENTED - LITTERING

LaRue Rolick, Community Educator with Quality Forward, said Quality Forward has been working diligently to clean up litter. She said a high school committee developed a slide presentation to be shown during all driver education classes in Asheville and Buncombe County. She said the slide show features Neville Bilbrey, an Asheville High School graduate, to help educate high school students about the impact of littering. She showed members of Council and the audience the slide show showing "famous Marvin" for his expertise in tossing litter and garbage out car windows in the trashing of Asheville and the rest of America. She said after the show was developed, Keep America Beautiful Committees across the country have asked to make copies of the 7 minute show. She said the slide show is being sold for the cost of copying.

Bess Baird, with Quality Forward, recognized and presented awards to Neville Bilbrey, Sheriff Tom Morrissey, and former Mayor McDevitt for helping with the slide presentation.

PUBLIC HEARING - AMENDING ZONING ORDINANCE RELATIVE TO GROUP DEVELOPMENT REVIEWS

ORDINANCE NO. 1563 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED (WORDING AMENDMENTS - ARTICLE 2. DEFINITIONS, SECTION 30-2-1. GENERAL, ARTICLE 6. SECTION 30-6-1. GROUP DEVELOPMENTS/PLANNED UNIT DEVELOPMENTS)

2. A public hearing was held relative to amending Article 2, Definitions, Section 30-2-1. General, and Article 6. Section 30-6-1, Group Developments/Planned Unit Developments of the zoning ordinance.

Mayor Bissette said this ordinance will amend the zoning ordinance to provide that any mobile home park, camper-trailer park, or any multi-family

be of great help in continuing the improvement in service to our subscribers. We are anxious to work with the Council if you feel this idea has merit.

I appreciate being given the time in your session to present this report of our progress. Thank you.

ORDINANCE NO. 1559 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED (WORDING AMENDMENT - ARTICLE 5. USE DISTRICTS, SECTION 30-5-3, R-2 LOW DENSITY RESIDENTIAL DISTRICT)

4. Consideration was given to the second reading of Ordinance No. 1559, an ordinance amending Ordinance No. 322, known as "an ordinance providing for the zoning of the City of Asheville," as amended (Wording Amendment - Section 30-5-3, R-2 Low Density Residential District).

Councilman Tisdale moved to amend Ordinance No. 1559, deleting the provision relative to 40' height limitations. This motion was seconded by Councilman Price and carried unanimously.

Councilman Tisdale said he was still supportive of 4 units per acre but since the majority of Council would be voting for 6 units per acre he would support that amendment.

Councilman Michalove again expressed concerns that the amendment to the R-2 Low Residential District is too strong of a move to permanently change the R-2 district in all areas of the City.

Councilman Bratton said she felt members of Council should not amend the zoning ordinance until the comprehensive plan from the Alternatives for Asheville Committee is presented.

On a roll call vote of 5-2, Ordinance No. 1559 passed on second reading with Councilman Bratton and Councilman Michalove voting "no".

REPORT RELATIVE TO ASHEVILLE CABLEVISION

Mike McPhee, Vice-President of Operations for Daniels and Associates, presented the following presentation to members of council:

residential building or structure containing (3) or more individual units will require approval pursuant to Group Developments/Planned Unit Developments.

Mayor Bissette opened the public hearing at 4:24 p.m.

The Deputy City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said this ordinance would modify the current regulations in the zoning ordinance relative to group developments to require a group development review by the Planning and Zoning Commission and City Council for developments of 25,000 square feet or more or any mobile home park, camper-trailer park or multi-family residential building or structure containing three (3) or more units. He said the current regulation is five (5) units or more.

Mayor Bissette closed the public hearing at 4:27 p.m.

Mayor Bissette said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Councilman Price moved for the adoption of Ordinance No. 1563. This motion was seconded by Councilman Boland.

On a roll call vote of 7-0, Ordinance No. 1563 passed on first reading.

CONTINUATION OF PUBLIC HEARING - GROUP DEVELOPMENT REVIEW - BUCK COVE DEVELOPMENT

3. A public hearing was continued for a group development review for the Buck Cove Development.

Mayor Bissette said the Asheville Planning and Zoning Commission at a meeting held November 13, 1985, reviewed the site plan of the proposed Buck Cove Development (Townhouses) to be located on Old Chunns Cove Road. The site plan was prepared by Dobson Engineering and Associates for Mr. Larry Buckner, Developer, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of the site plan to City Council subject to the following conditions: 1) that the street be constructed to an average grade of 15% and a maximum grade of 20%; 2) that the project comply with the Erosion Control Ordinance and that the final plans be shown with 2' contours instead of 5'. This public hearing was opened on December 17, 1985, and continued until January 7, 1986.

Verl Emrick, Director of Planning, said the developers are still having technical problems with their plan, and requested that the public hearing be continued until January 21, 1986.

Councilman Tisdale moved to continue the public hearing relative to the group development review for Buck Cove Development until January 21, 1986, without further advertisement. This motion was seconded by Vice-Mayor Frank and carried unanimously.

Cablevision has failed to, and I quote "furnish reasonable, adequate and efficient community antenna service to the residents of the City . . . (and) to maintain that system in reasonable repair and working order and provide adequate facilities for such maintenance" in the following respects:

1. Excessive service interruptions and outage problems exist;
2. Poor signal quality and reception exists; and
3. Asheville Cablevision has failed to provide adequate service response to the above mentioned problems.

Today, I will address each of these issues and share with you the steps we have taken to address each of them. Additionally, we have gathered survey data to support our contention that we continue to deserve the cable franchise for the City of Asheville.

As Tom Marinkovich indicated to you in October, service outages are caused by uncontrollable or controllable events. As a reminder, uncontrollable events are lightning or storm damage, utility poles being knocked down by vehicles or loss of electrical power to our equipment. The controllable circumstances involve either equipment failure that could have been anticipated or human error. Both of these types of failures can affect an individual customer or entire areas involving hundreds of homes. I intend to share with you those steps we are taking to reduce outages from uncontrollable circumstances.

Presentation
to
Asheville City Council
By
Michael P. Mc Phee
Vice President, Operations
Daniels and Associates, Inc.
January 7, 1985

Good afternoon. My name is Mike Mc Phee, and I am the Vice President of Operations for Daniels and Associates. Our Company is responsible for the management of Asheville Cablevision. I appreciate being given the opportunity to appear before you today and report on the progress and steps taken by our Cable Company in response to the letter from the City dated October 22, 1985. I believe that my report today will demonstrate to you that we have been responsive to the concerns raised in that letter. If you become convinced, as I am, that we have made significant progress toward correcting the problems, I will ask that you rescind the default position taken by the City at that time.

I also make the recommendation to the Council that its Cable Television Commission be continued, with expanded membership, to ensure ongoing communications with the cable company and continued compliance with the terms of our franchise.

As you are aware, Mayor Mc Devitt stated that Asheville

Controllable circumstances that cause equipment failure are those that could have been anticipated, or human error. We are expanding our technical capabilities in our system in 1986 and we intend to continue the technical training programs that were initiated in the second half of 1985.

To support our view that the service interruptions are less today, I would like to share with you the results of a opinion/attitude survey of Cablevision customers, which was conducted by the research analysts within Daniels corporate marketing department beginning in November. We attempted to contact all subscribers who attended the three public hearings or completed the City Council questionnaire and complained about service interruptions, poor picture quality, or inadequate service response. We were successful in reaching by telephone 1,122 of the approximately 1,800 people who completed City survey forms. In all cases, we asked those people if we could send them a survey form. Nearly all, 937 of them, agreed and received our written survey document. A total of 472 survey forms were returned to us, roughly 50 %, and the data I am about to present is based on that number. This number is significantly larger than the number of returned survey forms used in my December 17th report. I should point out that statistically this size group enables us to predict with +/- 3.2% accuracy at the 95% confidence level. I am pleased to report to the Council that although the precision level has increased

To reduce lightning damage and damage from "power transients" and "surges," we instituted a program over twelve months ago to improve the grounding for line equipment mounted on poles. To date, we have grounded 460 equipment locations using a highly effective, non-comingling grounding approach. These additional grounds provide a more efficient way to disperse currents induced by lightning strikes and other unwanted electrical currents in our cable plant. This approach exceeds code requirements and is expensive, but we feel it will be worth it to achieve increased reliability.

We have analyzed our outages, and fully 35 percent are directly related to interruptions of service from the power company. We continue to install backup power supplies throughout the system to provide backup power to the cable system during short term power interruptions. These devices will add considerable reliability to the cable system.

Occasionally our underground cable is cut or damaged during construction activities. We have installed a direct phone line and printer with a Utilities Locating Company and receive instant notices of construction activity that allow us to locate our buried cable before it is damaged.

subjective issue unless dealt with by a professional in the field. We hired Mr. Warren L. Braun, P.E., president and founder of Comsonics, Inc., a technical services firm in the cable television industry. Mr. Braun, a professional engineer, is a graduate electrical engineer with 44 years of experience in the radio and television broadcast industry, and is well recognized as an expert in the cable television industry. He was instrumental in the establishment of a scientific method of grading television picture quality known as the Taso scale. Mr. Braun felt that the picture quality throughout our system was good to excellent. You have been provided with a copy of Mr. Braun's report.

Asheville Cablevision has taken several steps to improve customer service response. While back in May of 1985, the case could have been made that Asheville Cablevision was providing a substandard level of customer service, through busy phone lines, discourtesy, or poorly answered questions by our customer service representatives, today there is absolutely no question that for the majority -- indeed the overwhelming majority of residents -- Asheville Cablevision is providing an outstanding level of customer service.

We have appointed a new system general manager, who was the recipient of Daniels' highest management award for customer service in 1985. He has brought to us a renewed commitment to service and leadership for our employees. We have

(from +/- 5.0% to +/- 3.2%), there are no substantial changes in the results that were reported in the December report. These results from those subscribers who formerly were our severest critics, would indicate that Asheville Cablevision has made significant progress in reducing service interruptions and outages.

Survey data is certainly meaningful, but perhaps one of the truest indicators of our improved performance is your own personal experience. At the December 17th Council work session Councilwoman Price indicated that the complaints had stopped and that one of her neighbors had expressed surprise when the Cable Company had called back three times to make sure they were satisfied. Human nature being what it is, people that are satisfied tend to remain silent.

We also conducted a telephone survey of 400 subscribers selected at random to obtain their views on these same subjects. This survey revealed that since July 1, those respondents who reported experiencing outages were cut in half. We do not intend to rest on our laurels, and we will again spend approximately $1 million in 1986 on new plant and equipment for the cable system to improve reliability.

We evaluated the systems technical condition and signal quality. In order to do this we retained an independent expert in television broadcasting. Picture quality is a very

Today our office hours are 8 a.m. to 8 p.m., Monday through Friday; 9 a.m. to 5 p.m. on Saturday; (technicians and installers until 8 p.m.); and technicians 9 a.m. until 5 p.m. on Sunday. Additionally, we have a duty officer and chief technician on call from 8 p.m. to 8 a.m. every day to deal with customer problems during the time our answering service is handling telephone calls.

We have established an arrangement with the Better Business Bureau and the Mayor's office to notify us immediately of any complaints received by them from our customers. With this information, we are able to respond to dissatisfied customers more quickly.

In May we installed a new telephone system and expanded the number of incoming lines to 10. Our survey indicates that those respondents who have tried to reach Cablevision on the telephone since July 1, 1985, ten times as many report that access has gotten better. We instituted cycle billing in October to further even out telephone calls associated with billing questions and reduce peak period traffic.

We instituted our Customer Care program in August, and have made a very serious effort to communicate with our subscribers and the citizens of Asheville. We have had three live call-in television shows inviting customers to call with any questions or complaints they had with the

invested considerable resources in an improved telephone system. We've expanded our customer service hours. We created a new position dedicated full-time to resolving special customer service problems which cannot be quickly addressed through our normal procedures. We have publicized a new Customer Care Program and have conducted extensive training and supervision to ensure that all our employees treat our customers with utmost care and respect. Further, we've instituted a policy to check back with all customers receiving installation or service to ensure their complete satisfaction with the quality of our work.

Based upon these concrete, positive actions coupled with research conducted on two separate occasions since the City's hearings to examine our customers' attitudes about service in detail, I am fully confident that customer service response is no longer a point of contention with Asheville Cablevision customers. In fact, we are now receiving high marks for our service response, dedication, courtesy and commitment to 100 percent subscriber satisfaction.

Let me take a few moments to go into detail on these service points, as well as let you know the results of customer surveys, which provide further evidence of our position.

three of every four customers felt that Asheville Cablevision had improved its overall performance recently.

Three out of four rated us as excellent or good on providing courteous service. A majority said our response time was either excellent or good. Nearly two-thirds rated our overall customer service performance as excellent or good. Again, these results come not from the customer base at large, but focused directly on those dissatisfied people who raised concerns about our service seven months ago.

The survey data supports our position that service response has improved since July 1. Of the people who responded, 48% felt our customer service had improved, versus 3% who felt it was worse. 59% of these respondents rated Cablevision better with respect to providing courteous service versus 2% who felt we were worse. It is unlikely we will ever satisfy all of our customers 100%, but we will try. If we have dissatisfied customers and they tell us of their problems, we will correct them.

Asheville Cablevision has been responsive to the concerns raised by the City Council in October. I come here today to renew the commitment of the President of Daniels & Associates Inc. to provide outstanding cable television service here in Asheville and we will fulfill that obligation. I hope the information presented here today has

cable company. As we received those complaints, we dealt with them immediately. We have initiated some locally originated programming to be more responsive to the specific needs of Asheville and Buncombe County. Our Christmas version of Asheville Video Probe dealt with the support agencies that are available and the services they provide to help the needy here in the Asheville/Buncombe area. I was very proud of this particular production, and I hope all of you had an opportunity to watch it. Our Toys for Tots campaign during Christmas was very successful contributing over 800 toys and $500 to the Salvation Army for distribution.

During the past seven months, we have actually conducted, at our company's expense, three scientific opinion/attitude surveys to attempt to verify and quantify the positive and negative impressions of our company, outages, signal quality, customer service response and overall performance.

The survey methodology adhered to sound research principles to give us a real picture of our customers' perceptions.

One of the surveys, as I mentioned earlier, was specifically aimed at those people who had taken part in the hearings or City survey, which we have termed "Previously Dissatisfied Customers." The results among that group show that almost

Councilman Price noted that the citizens of Asheville should know that Asheville Cablevision does not have an "exclusive franchise" and another cablevision company option is open for Asheville.

Councilman Boland said he would be interested in looking at the option of another cablevision company coming to Asheville.

Councilman Bratton said she felt the members of Council have a responsibility to the community to look into that option.

Councilman Tisdale commended Asheville Cablevision for their most recent efforts and asked that they continue with their improvements.

Morris Fox, of Valle Vista Road, said he was one of the original complainers during the May public hearings relative to Asheville Cablevision. He said since that time the services have improved tremendously, since Michael McPhee has been operating Asheville Cablevision.

Sam Hyatt, of Providence Road, said on a scale of 1 to 10, the rate of service for Asheville Cablevision, in the recent weeks, has been about a 9 and back in May it couldn't possibly have been above a 2. He said he felt tremendous progress has been made in service. He said when Asheville Cablevision officials changed their programming it should have been clarified and done with proper understanding.

Chris Peterson, with Peterson Amusements Company, spoke in support of Asheville Cablevision.

Gary Moffitt, Manager of Cinjades, said he felt Asheville Cablevision's service is good and response and asked that Council rescind their letter of default.

Steve Brady, with Steven's Pub, said he felt Asheville Cablevision's service was excellent.

Carl Green told members of Council he felt Asheville Cablevision's prices were cheaper than other cable companies and other utility costs.

Wolfgang Reiner, with WCOS, said he felt Asheville Cablevision was very responsive and courteous to their subscribers. He said cablevision in Alabama was more expensive than Asheville Cablevision.

Don Chase, West Asheville resident, spoke to members of Council relative to his many problems with Asheville Cablevision citing bad reception and constant interference.

Patsy Roberts, with Norrell Services, spoke in favor of Asheville Cablevision.

Peter Winslow, Chairman of the Asheville/Buncombe Cable Television Study Committee, said he was still receiving complaints relative to programming problems. He said he felt their service was getting better. He asked questions of Mr. McPhee relative to the 5 year budget presented when Daniels and Associates took over Asheville Cablevision. He also indicated several commercial businesses in town that could not receive cablevision services.

convinced you that we have made significant progress toward this objective. We believe we deserve the cable franchise for the City of Asheville, and we will continue to work diligently to earn that privilege. If you agree, it is fair for you to rescind the default declaration made in Mayor Mc Devitt's letter of October 22, 1985. We ask you to take that action today.

I appreciate being given the time in your session to present this report of our progress. Thank you.

Councilman Roland said he was happy to hear of the improvements by Asheville Cablevision, but he still felt the citizens were concerned about the inadequate programming on the basic service. He said there was considerable sentiments that programming by Asheville Cablevision does not compare with other cities' programming. He said he felt this was important for Asheville Cablevision to take under advisement.

Mr. McPhee, responding to Councilman Roland, said he realized the prgramming last March was unpopular, however the change was made for economical reasons to remove the expensive channels. He said he felt there was a need in Asheville to carry a low basic service for fixed-income subscribers. He said Asheville Cablevision has not increased the price for basic services in the past three years. He said Asheville Cablevision had to make a business decision to remove the expensive channels from the basic service in order not to increase the price for basic service. He said all cable companies have independent programming lineups.

Councilman Roland and Councilman Bratton said, in their opinion the subscribers felt betrayed when the programming was changed in March of 1985.

Councilman Bratton said she had voted for the last rate increase for Asheville Cablevision, based on the programming presented at that time.

Councilman Roland said he realized that Asheville City Council did not have a legal recourse to force Asheville Cablevision to do anything with their programming, however, Asheville Cablevision should take this into consideration.

Mr. McPhee, responding to Councilman Roland and Councilman Bratton, said cable companies have a right to modify their programming.

Complete text of Resolution No. 86-1 will be found in Resolution No. 15 at page 409.

BIDS - ELEVEN (11) 2-WAY RADIOS FOR POLICE DEPARTMENT

8. Consideration was given to a motion relative to bids received for eleven (11) 2-way portable radios for the Police Department.

Mayor Bissette said sealed bids were received to furnish eleven (11) FM 2-way portable radios for use by the Police Department. Four (4) invitations were mailed to prospective bidders, however only one bid was received. This bid was from Motorola Communications in the amount of $17,490. A total of $16,622 was budgeted to purchase eleven (11) radios - seven (7) for the Patrol Bureau and four (4) for the Criminal Investigations Bureau. Bid of $17,490, which is $868 in excess of budget, should cause no negative effect because of anticipated savings on other purchases.

Councilman Price moved that the bid be awarded to Motorola Communications in the amount of $17,490. This motion was seconded by Councilman Tisdale and carried unanimously.

RESOLUTION 86-2 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A NEGOTIATED SETTLEMENT AGREEMENT BY AND BETWEEN THE CITY OF ASHEVILLE AND THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

9. Consideration was given to a resolution authorizing the City Manager to execute a negotiated settlement agreement by and between the City of Asheville and the Equal Employment Opportunity Commission.

Mayor Bissette said members of Council were previously furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Tisdale, seconded by Councilman Price, Resolution No. 86-2 was unanimously adopted.

Complete text of Resolution No. 86-2 will be found in Resolution Book No. 15 at page 410.

RESULTS OF DEMOCRATIC PRIMARY - SEPTEMBER 24, 1985 AND GENERAL ELECTION NOVEMBER 5, 1985 FOR MAYOR AND CITY COUNCIL

10. The Acting City Manager said he had received the results of the City Council Democratic primary of September 24, 1985, and the Mayor and City Council general election of November 5, 1985 and requested they be made a part of the minutes.

A copy of the results are attached.

CLAIMS - MRS. A. B. HESS (WATER) - DONALD PENLAND (SEWER) - ROCK HAVEN MOTEL (WATER) - LEIGH HIPPS (STREETS) - LUCY HUGHES (WATER) - MEEKER LINCOLN MERCURY INCORPORATION (SANITATION) - MIKE HAHN (SEWER)

11. The Acting City Manager presented claims received from Mr. A.B. Hess, Donald Penland, Rock Haven Motel, Leigh Hipps, Lucy Hughes, Meeker Lincoln Mercury Incorporation, and Mike Hahn.

Mr. Winslow said he felt Asheville City Council should continue to be a "watchdog" of Asheville Cablevision and requested that they work on programming.

June Ratcliff, also a member of the Asheville/Buncombe Cable Television Committee, said she felt Asheville Cablevision had violated its trust in its recent change in programming.

After discussion, Mayor Bissette said members of Council had discussed the cablevision issue during pre-council work session and executive session, and it was the consensus of Council that Mayor Bissette send a letter to Asheville Cablevision within the next two weeks.

Councilman Price said she would be interested in the Asheville/ Buncombe Cable Television Committee being active.

ORDINANCE NO. 1564 - BUDGET ORDINANCE AMENDMENT APPROPRIATING FUNDING FOR PUBLIC IMPROVEMENTS IN THE HAYWOOD STREET REDEVELOPMENT PROJECT

6. Consideration was given to a budget ordinance amendment appropriating funding for public improvements in the Haywood Street Redevelopment Project.

Mayor Bissette said this budget ordinance amendment is to appropriate funding totaling $320,000 for public improvements in the Haywood Street Redevelopment Project. Funding will be provided from uncommitted General Revenue Sharing Funds. These public improvements will result in private investment of approximately $5.5 million.

Councilman Michalove moved for the adoption of Ordinance No. 1564. This motion was seconded by Councilman Price.

On a roll call vote of 7-0, Ordinance No. 1564 passed on first and final reading.

Complete text of Ordinance No. 1564 will be found in Ordinance Book No. 10 at page 356.

RESOLUTION NO. 86-1 - RESOLUTION OF CONCURRENCE WITH A BUSINESS RELOCATION POLICY CHANGE

7. Consideration was given to a resolution of concurrence with a business relocation policy change.

Mayor Bissette said this policy change provides sole proprietorships, with the owner being 65 years of age or older, who have businesses which are subject to relocation, with an option of receiving a payment of $10,000 "in lieu of" moving expense payment or the actual moving expense cost. Possible cost is $40,000. Funds for this purpose are budgeted in the Pack Plaza Project.

Mayor Bissette said members of Council were previously furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Michalove, seconded by Councilman Roland, Resolution No. 86-1 was unanimously adopted.

CITY COUNCIL

DEMOCRATIC PRIMARY - SEPTEMBER 24, 1985

ABSTRACT OF VOTES, CAST AT PRIMARY ELECTION, HELD FOR COUNCILMEN, CITY OF ASHEVILLE, SEPTEMBER 24, 1985, IN THE COUNTY OF BUNCOMBE, NORTH CAROLINA AT PLACES APPOINTED BY LAW FOR HOLDING PRIMARY ELECTIONS IN SAID COUNTY.

PRECINCTS 1 THROUGH 18	RALPH B. ADAMS	WALTER R. BOLAND	WILHELMINA B. BRATTON	MARY LLOYD FRANK	KATHERINE T. GROOMS	CAM METCALF	KEN MICHALOVE	NORMA T. PRICE	DOUG SWAIM	GEORGE M. TISDALE
ASHEVILLE # 1	53	77	89	56	18	25	67	60	36	35
ASHEVILLE # 2	218	188	241	136	118	161	168	168	165	80
ASHEVILLE # 3	163	148	119	116	60	86	138	128	96	87
ASHEVILLE # 4	82	269	169	236	79	103	271	257	156	205
ASHEVILLE # 5	68	270	158	235	67	73	275	269	156	198
ASHEVILLE # 6	94	242	167	207	61	101	227	227	162	148
ASHEVILLE # 7	91	156	150	135	46	44	157	141	84	87
ASHEVILLE # 8	101	122	146	91	41	38	106	93	48	67
ASHEVILLE # 9	32	59	27	48	27	17	52	53	32	49
ASHEVILLE # 10	114	84	143	48	22	7	81	62	21	35
ASHEVILLE # 11	76	62	108	37	18	17	57	56	30	23
ASHEVILLE # 12	40	53	27	38	30	30	42	48	31	63
ASHEVILLE # 13	33	74	44	48	44	29	71	60	46	56
ASHEVILLE # 14	42	63	49	41	28	34	52	46	34	45
ASHEVILLE # 15	97	179	100	156	71	63	165	167	115	143
ASHEVILLE # 16	53	112	73	81	51	65	100	100	86	89
ASHEVILLE # 17	52	136	86	106	40	48	131	128	100	91
ASHEVILLE # 18	33	48	40	32	15	24	43	39	34	41
ABSENTEE	10	25	14	19	1	7	22	21	18	14
PRECINCT TRANSFER VOTES	15	16	12	13	12	14	15	17	9	12
TOTALS	1469	2383	1962	1881	860	988	2292	2136	1457	1591

Mayor Bissette referred the claims to the Corporation Counsel for investigation and recommendation.

ADJOURNMENT TO EXECUTIVE SESSION

Councilman Price moved that Council adjourn to executive session to discuss a personnel matter. This motion was seconded by Councilman Boland and carried unanimously. The meeting adjourned to executive session at 6:00 p.m.

Mayor

City Clerk

Tuesday - January 14, 1986 - 4:00 p.m.

Regular Meeting

Present: Mayor Louis Bissette, Presiding; Vice-Mayor Mary Lloyd Frank; Councilmen Wilhelmina Bratton, Walter R. Boland, Kenneth M. Michalove, Norma T. Price, George M. Tisdale; Corporation Counsel William F. Slawter; and Acting City Manager William F. Wolcott, Jr.

Absent: None

INVOCATION

The invocation was given by Mayor Bissette.

APPROVAL OF THE MINUTES - JANUARY 7, 1986 MEETING

1. Mayor Bissette noted that the minutes should be amended to correct a typing error on Page 342, paragraph 8. The word "response" should be "responsive."

Mayor Bissette announced the approval of the minutes as amended.

MAYOR BISSETTE - RECOGNITION OF ERIC ARTHUR

2. Mayor Bissette recognized Eric Arthur, Boy Scout, attending the Council meeting as part of his work toward a citizenship merit badge.

ORDINANCE NO. 1563 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED (WORDING AMENDMENT - ARTICLE 2., DEFINITIONS, SECTION 30-2-1. GENERAL., ARTICLE 6, SECTION 30-6-1. GROUP DEVELOPMENT/PLANNED UNIT DEVELOPMENTS)

3. Consideration was given to the second reading of Ordinance No. 1563, "an ordinance amending Ordinance No. 322, known as "an ordinance providing for the zoning of the City of Asheville," as amended (Wording Amendment - Article 2., Definitions, Section 30-2-1. General., Article 6, Section 30-6-1. Group Development/Planned Unit Developments.)

Mayor Bissette said this ordinance will amend the Zoning Ordinance to provide that any mobile home park, camper-trailer park, or any multi-family residential building or structure containing three (3) or more individual units will require approval pursuant to Group Developments/Planned Unit Developments. This ordinance passed on first reading on January 7, 1986.

Mayor Bissette said this ordinance was previously read on first reading and would not be reread in its entirety unless there was a specific request to do so.

On a roll call vote 7-0, Ordinance No. 1563 passed on second reading.

MAYOR AND CITY COUNCIL

GENERAL ELECTION - NOVEMBER 5, 1985

ABSTRACT OF VOTES, CAST AT GENERAL ELECTION, HELD FOR MAYOR AND CITY COUNCILMAN, CITY OF ASHEVILLE NOVEMBER 5, 1985, IN THE COUNTY OF BUNCOMBE, NORTH CAROLINA AT PLACES APPOINTED BY LAW FOR HOLDING GENERAL ELECTIONS IN SAID COUNTY.

	FOR MAYOR		FOR CITY COUNCIL									
PRECINCTS 1 THROUGH 18	J.W. "RED" HOYLE	LOUIS BISSETTE	WALTER R. BOLAND	WILHELMINA D. BRATTON	MARY LLOYD FRANK	KEN MICHALOVE	NORMA T. PRICE	GEORGE H. TISDALE	ROGER D. CAMP	JOEL R. RABY	DARLEY C. SCHMIDT	BARBARA WHITAKER
	D	R	D	D	D	D	D	D	R	R	R	R
ASHEVILLE #1	119	90	166	186	146	162	146	142	36	79	30	58
ASHEVILLE #2	258	240	398	394	332	391	363	316	101	51	49	113
ASHEVILLE #3	232	186	286	268	268	284	288	260	122	101	107	152
ASHEVILLE #4	281	566	581	474	529	620	587	468	259	208	247	443
ASHEVILLE #5	289	795	670	550	627	780	709	553	365	296	357	677
ASHEVILLE #6	435	643	693	573	637	683	712	591	386	328	370	542
ASHEVILLE #7	272	265	354	360	324	355	348	290	122	93	99	153
ASHEVILLE #8	196	191	279	292	252	270	258	236	114	78	117	145
ASHEVILLE #9	185	125	189	170	186	197	200	186	108	93	91	154
ASHEVILLE #10	118	97	170	220	140	163	145	145	45	12	9	26
ASHEVILLE #11	170	87	137	173	105	126	111	102	41	18	25	44
ASHEVILLE #12	125	120	157	130	130	148	157	153	84	81	79	111
ASHEVILLE #13	126	133	162	164	157	182	182	170	85	67	66	104
ASHEVILLE #14	141	152	187	176	169	189	190	179	101	90	90	126
ASHEVILLE #15	336	421	469	391	432	493	487	423	277	255	275	360
ASHEVILLE #16	233	268	319	270	281	312	300	289	188	174	175	237
ASHEVILLE #17	137	386	332	290	322	371	352	274	178	115	146	309
ASHEVILLE #18	109	269	203	185	146	205	161	157	190	174	189	246
ABSENTEES	43	51	69	50	54	67	64	56	22	23	26	43
ELECTION DAY TRANSFERS	17	33	31	29	24	34	25	20	20	13	15	27
TOTALS	3702	5118	5882	5345	5261	6022	5785	5021	2842	2299	2577	4049

ORDINANCE NO. 1565 - BUDGET ORDINANCE AMENDMENT TO PROVIDE FUNDING FOR URBAN DESIGN WORKSHOP

5. Consideration was given to a budget ordinance amendment to provide funding for Urban Design Workshop.

Mayor Bissette said this budget ordinance amendment will provide funding in the amount of $24,996 for services for Urban Design Workshop. One half of funding is provided by local participation.

Verl Emrick, Director of Planning said $12,500 will be provided by the City as local participation and this will be matched by $12,500 from the private sector.

Karen Fields, Executive Director of Asheville-Buncombe Discovery, said workshops, which will be sponsored by the City of Asheville, Asheville-Buncombe Discovery, and Downtown Developers will be held during the months of January and February. She said this project will also call for meetings with Biltmore Village merchants and West Asheville merchants to encourage development in those areas.

Councilman Boland moved for the adoption of Ordinance 1565. This motion was seconded by Councilman Michalove.

On a roll call vote of 7-0, Ordinance No. 1565 passed first and final reading.

Complete text of Ordinance No. 1565 will be found in Ordinance Book 10 at Page 356.

RESOLUTION NO. 86-3 - A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE ON BEHALF OF THE CITY OF ASHEVILLE AN AGREEMENT BY AND BETWEEN THE CITY OF ASHEVILLE AND HAYES, SEAY, MATTERN AND MATTERN FOR THE ASHEVILLE URBAN DESIGN WORKSHOP PROJECT

6. Consideration was given to a resolution authorizing the Mayor to execute on behalf of the City of Asheville an agreement by and between the City of Asheville and Hayes, Seay, Mattern and Mattern for the Asheville Urban Design Workshop Project.

Mayor Bissette said this resolution will authorize an agreement with Hayes, Seay, Mattern and Mattern to facilitate a series of workshops which will result in a graphic urban design plan for the downtown area. Total cost of contract - $25,000 City: $12,500 and Private Sector: $12,500

Verl Emrick, Director of Planning, said the workshop will be lead by Architect Tinm Jamieson of Roanoke, Virginia; Urban Designer Chad Floyd of Centerbrook Essex, Connecticut; and Lester Collins, former Dean of Landscape Architect at Harvard University.

Mr. Emrick said the purpose of this project is to create an urban plan for Asheville, and will requires the cooperation of the public and private sector.

ORDINANCE NO. 1559 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED (WORDING AMENDMENT - SECTION 30-5-3. R-2 LOW DENSITY RESIDENTIAL DISTRICT)

4. Consideration was given to the third reading of Ordinance No. 1559, an ordinance amending Ordinance No. 322, known as "an ordinance providing for the zoning of the City of Asheville," as amended (Wording Amendment - Section 30-5-3. R-2 Low Density Residential District.)

Mayor Bissette said the Asheville Planning and Zoning Commission, at a meeting held November 6, 1985, considered the request of the Haw Creek Community Association, Inc. that the Zoning Ordinance be amended by creating a new R2-A Residential District. After discussion, the Commission voted to recommend to City Council that the request be denied and that the alternate recommendation of staff to amend the current R-2 Residential District be denied. The Haw Creek Community Association, Inc. has requested that Council hold a public hearing relative to this request. This ordinance passed on first reading on December 17, 1985, and on second reading on January 7, 1986, amending the R-2 density dwelling units per acre to six (6).

Lee Towery, 17 Alpine Way, spoke in opposition to the proposed zoning. He requested that City Council delay the third reading of the ordinance until such time as the City can re-write the entire Zoning Ordinance so that it will be uniform throughout the entire City.

Mr. David West spoke in opposition to the proposed zoning. He said the proposed zoning had not been recommended by the Planning and Zoning Commission and that several matters should be taken into consideration by City Council before the ordinance was adopted. He said the proposed zoning would have an adverse affect on the City through loss of revenues and population. He requested that Council table the ordinance.

Councilman Price said she hopes any action the Council takes does not conflict with any directions the Alternatives for Asheville would be looking at. She said Council has had to address problems in Haw Creek not affecting other areas of the City. She said Council's action is a reaction to a moratorium placed on Haw Creek area by the State.

Councilman Bratton said she had voted against the proposed ordinance on first and second reading. She said she would vote against the ordinance again today because she felt the City needs to complete the comprehensive plan for the whole City.

Mayor Bissette said this ordinance was previously read on first and second reading and would not be reread in its entirety unless there was a specific request to do so.

On a roll call vote of 5-2, Ordinance No. 1559 passed on third and final reading, with Councilman Bratton and Councilman Michalove voting "no."

Complete text of Ordinance No. 1559 will be found in Ordinance Book 10 at Pages 346 and 347.

Complete text of Resolution No. 86-5 will be found in Resolution Book 15 at Page 413.

RESOLUTION NO. 86-6 - RESOLUTION APPOINTING MEMBER TO THE ASHEVILLE/BUNCOMBE WATER AUTHORITY

8a. Consideration was given to a resolution appointing member to the Asheville/Buncombe Water Authority.

Mayor Bissette said this resolution will appoint Richard A. Wood for a term of 3 years, term to expire December 31, 1988.

Mayor Bissette said John Powell had indicated that he was not interested in being reappointed due to other commitments.

Upon motion of Councilman Price, seconded by Councilman Michalove, Resolution No. 86-6 was unanimously adopted.

Complete text of Resolution No. 86-6 will be found in Resolution Book 15 at Page 414.

RESOLUTION NO. 86-7 - RESOLUTION APPOINTING MEMBER TO THE METROPOLITAN SEWERAGE DISTRICT

8b. Consideration was given to a resolution appointing a member to the Metropolitan Sewerage District.

Mayor Bissette said this resolution will reappoint Walter Boggs as a member to the Metropolitan Sewerage District Board for a term of 3 years, term to expire January 19, 1989.

Councilman Price said she felt Mr. Boggs' continued service on this Board would be in the best interest of the City since the City has just signed a consolidation agreement with MSD.

Councilman Tisdale said he had talked with Roy Robinson and was told that Mr. Boggs has been a devoted member to the Metropolitan Sewerage District Board. The Board encourages City Council to reappoint Mr. Boggs, and he supports the reappointment.

Upon motion of Councilman Bratton, seconded by Councilman Michalove, Resolution No. 86-7 was unanimously adopted.

Complete text of Resolution No. 86-7 will be found in Resolution Book 15 at Page 415.

MOTION - CONSENT AGENDA

Mayor Bissette said the following items are of a routine nature and they have been previously reviewed by the members of the City Council. Therefore, by unanimous vote to approve these items, the City Council may, pursuant to the procedures established in Ordinance No. 1008, adopt all of the items with one motion without the full reading and/or separate motion adopting each individual item. Upon the request of a citizen, a member of the City Council, and/or a member of the City staff, any single item scheduled for approval on the consent agenda may be considered separately.

Mayor Bissette said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Vice-Mayor Frank, seconded by Councilman Price, Resolution No. 86-3 was unanimously adopted.

Complete text of Resolution 86-3 will be found in Resolution Book 15 at Page 411.

RESOLUTION NO. 86-4 - RESOLUTION APPROVING TRANSFER OF NORTH CAROLINA HOUSING FINANCE AGENCY HOME IMPROVEMENT LOAN COMMITMENTS TO THE CITY OF LUMBERTON, NORTH CAROLINA

7. Consideration was given to a resolution approving transfer of North Carolina Housing Finance Agency Home Improvement Loan Commitments to the City of Lumberton, North Carolina.

Mayor Bissette said this resolution will approve a reduction of a loan commitment from $240,000 to $140,000 by transferring $100,000 to the City of Lumberton. The City of Lumberton will reimburse the City of Asheville $3,000 for a debt reserve and $18,360 interest subsidy which was previously paid from Community Development Block Grant funds.

Marvin Vierra, Director of Community Development, said that $140,000 would be left for loans through the agency, and this action would not put any rehabilitation efforts in jeopardy. He said since April of 1983, only two persons out of 50 applicants, were able to qualify under the stringent guidelines now imposed for these loans. He said the Housing Finance Agency's intent is to help low income people with housing rehabilitation, but to qualify, you must be in the mid-income category.

Mr. Vierra answered general questions from members of Council concerning restrictions and how the funds are released by the State.

Upon motion of Councilman Tisdale, seconded by Councilman Michalove, Resolution No. 86-4 was unanimously adopted.

Complete text of Resolution No. 86-4 will be found in Resolution No. 15 at Page 412.

RESOLUTION NO. 86-5 - RESOLUTION APPOINTING A MEMBER TO THE ASHEVILLE-BUNCOMBE WATER AUTHORITY.

8. Consideration was given to a resolution appointing a member to the Asheville-Buncombe Water Authority.

Mayor Bissette said this resolution will appoint Norma Price to fill the unexpired term of Gordon Myers, whose term expires December 31, 1986.

Upon inquiry of Councilman Price, Corporation Counsel Slawter said that it would be a conflict of interest for her to vote on this matter.

Upon motion of Vice-Mayor Frank, seconded by Councilman Michalove, Resolution No. 86-5 was adopted with Councilman Price abstaining.

CLAIMS - DOUG MICHAELS (SANITATION), MARY SANTUCCI (FIRE DEPARTMENT), JOHN HOLT (SEWER), ANN CARVER (STREETS), WILLIAM IRBY, SR. (SANITATION), AND HAZEL CARLAND (WATER)

9. The City Manager presented claims received from Doug Michaels (Sanitation), Mary Santucci (Fire Department), John Holt (Sewer), and Carver (Streets), William Irby, Sr. (Sanitation), and Hazel Carland (Water).

Mayor Bissette referred the claims to the Corporation Counsel for investigation and recommendation.

LAWSUITS - ELIZABETH WITSON V. CITY OF ASHEVILLE; WYAND F. DOERNER, III V. CITY

10. The City Manager said the City was served on January 6, 1986, with the following lawsuits in which the City is a defendant: - Elizabeth Witson v. City of Asheville and Wyand F. Doerner, III v. City of Asheville.

Mayor Bissette referred the lawsuits to Corporation Counsel for investigation and recommendation.

RALPH BISHOP - REMARKS ON CABLEVISION REPORT

11. Ralph Bishop said he felt that Council had received a real snow job when they heard the report on cablevision last week. He said that he would side with Councilman Boland and agree that Asheville Cablevision has violated their franchise. He said he hopes the Council will continue to look into the possibility of getting another cable company in Asheville.

BILL BARLEY - 68 FAIRWAY DRIVE

12. Bill Barley, 68 Fairway Drive, said he appreciated Councilman Price's consideration. He said that the residents of Beverly Hills would be prepared to state their case when the Carmelite matter comes before the City Council on February 4, 1986.

ADJOURNMENT - EXECUTIVE SESSION

Councilman Price moved that Council adjourn to executive session to discuss real estate and personnel matters. This motion was seconded by Vice-Mayor Frank and carried unanimously. The meeting adjourned to executive session at 5:03 p.m.

MAYOR

William E. Malcott
CITY CLERK

A. **Motion scheduling a public hearing relative to the site plan of the proposed Eagle's Crest Retirement Center and The Forrest Apartments to be located on the Carmelite Monastery site on Fairway Drive for February 4, 1986.**

HIGHLIGHTS: The Planning and Zoning Commission at a meeting held December 11, 1985, reviewed the site plan of the proposed Eagle's Crest Retirement Center and The Forrest Apartments to be located on the Carmelite Monastery site on Fairway Drive. The site plan was prepared by Jan Wiegman, Architect, for the M.B. Corporation of Raleigh, N. C., Developer, and submitted in accordance with the Group Development Section of the Zoning Ordinance. After review and discussion, the Commission voted to accept the Staff Report and approve the project subject to the following conditions:

1. That parking for Eagle Crest be no less than one space per unit;

2. That the plans prior to going to City Council be submitted showing a relocation of the tennis courts.

3. That the Department of Public Works approve the specifications and design of street requested for dedication or that portion thereof; and

4. Compliance with Erosion Control Ordinance.

The Commission further recommended that City Council consider officially closing Carmelite Drive.

B. **Motion scheduling a public hearing relative to amending the Zoning Ordinance to provide for handicapped off-street parking requirements for February 4, 1986.**

C. **Motion scheduling a public hearing relative to the site plan of 60-66 Haywood Street for February 11, 1986.**

HIGHLIGHTS: The Planning and Zoning Commission at a meeting held December 11, 1985, reviewed the site plan of 60-66 Haywood Street showing adaptive reuse of two buildings for residential and retail purposes. The site plan was prepared by James Samsel, Architect, for City Assets Corporation, Developer, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of the site plan to City Council.

Upon motion of Councilman Tisdale, seconded by Councilman Michalove, the Consent Agenda was unanimously adopted.

further notified that if you failed to commence corrections within sixty (60) days of receipt of this notice and failed to complete corrections within a reasonable time thereafter, the City Council of the City of Asheville would consider revoking and declaring forfeited the franchise agreement and all of Asheville Cablevision's rights thereunder.

On December 17, 1985, you presented to the Asheville City Council a report responding to the City's notification of default. This report included a customer service survey dated December, 1985, and a signal analysis prepared by Warren L. Braun, dated December 12, 1985. These reports were supplemented by a further presentation to City Council by Michael P. McPhee on January 7, 1985 and an update on the previously submitted customer service survey.

A public hearing was held by the Asheville City Council on January 7, 1986 and comments were taken from members of the public, as well as members of the Asheville-Buncombe Cable Television Committee.

Based upon the foregoing evidence, the Asheville City Council hereby acknowledges the commencement of corrections as requested in our notice of default to you, dated October 22, 1985.. It appears that Asheville Cablevision has made an effort to improve its service to the residents of the City by addressing the following problems:

1. Excessive service interruptions and outage problems.

2. Poor signal quality and reception.

3. Inadequate service response to the above mentioned problems.

It is much more difficult based upon the evidence received by the City Council to make a final determination at this time as to whether the corrections required have been completed. Therefore, the City of Asheville will continue to monitor on a regular basis the service being provided to the citizens of Asheville under Asheville Cablevision's franchise agreement. We propose to monitor this performance through the use of a newly constituted cable television commission. This commission will be named by the City Council and will include a representative from the City Council, the General Manager of Asheville Cablevision, the Chairman of the Asheville-Buncombe Cable Television Committee and two additional representatives from the community to be named by the City Council. It will be the responsibility of this newly constituted commission to monitor Asheville Cablevision's compliance with the terms of its franchise agreement and to provide regular communications between Asheville Cablevision and the City of Asheville.

In addition, the City of Asheville shall renew its request to the Federal Communications Commission for the completion of the investigation which has been requested by the City of Asheville.

Although it is apparent that Asheville Cablevision is making an effort to address many of the service problems which have occurred in the past, Asheville Cablevision has made no significant effort to address the complaints of the citizens of the City of Asheville and

Tuesday - January 21, 1986 - 4:00 p.m.

Regular Meeting

Present: Mayor Louis Bissette, Presiding; Vice-Mayor Mary Lloyd Frank; Councilmen Wilhelmina Bratton, Norma Price, Kenneth Michalove, and George Tisdale; Corporation Counsel William Slawter; Acting City Manager William F. Wolcott, Jr.; Deputy City Clerk Carol Hensley.

Absent: Councilman Walter R. Boland

INVOCATION

The invocation was given by Councilman George Tisdale.

APPROVAL OF THE MINUTES - JANUARY 14, 1986 MEETING

1. Approval of the minutes of the January 14, 1986 meeting.

Mayor Bissette announced the approval of the minutes as submitted.

RESOLUTION NO. 86-8 - RESOLUTION OBJECTING TO THE SELECTION OF BUNCOMBE COUNTY AS A SITE FOR THE DUMPING OF NUCLEAR WASTE

1A. Consideration was given to a resolution objecting to the selection of Buncombe County as a site for the dumping of nuclear waste.

Mayor Bissette read the resolution.

Upon motion of Councilman Price, seconded by Councilman Bratton, Resolution No. 86-8 was unanimously adopted.

Complete text of Resolution No. 86-8 will be found in Resolution Book No. 15 at page 416 and 417.

Councilman Price noted that even though the selection of the site was in the future, the idea of selecting a site in Buncombe County is damaging to our community. She requested that the letters indicating objection to the site for the repository of nuclear waste being in Buncombe County insist that the community be notified that Buncombe County would not be considered as a site as expeditiously as possible.

LETTER TO ASHEVILLE CABLEVISION

Mayor Bissette read the following letter relative to Asheville Cablevision:

January 20, 1986

Mr. Michael P. McPhee
Asheville Cablevision
172 Charlotte Street
Asheville, NC 28801

Dear Mr. McPhee:

On October 22, 1985, the City of Asheville notified you by letter from Larry McDevitt, Mayor, that Asheville Cablevision was in default under Section 20 of its franchise agreement with the City. You were

plan was prepared by Dobson Engineering and Associates for Mr. Larry Buckner, Developer, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of the site plan to City Council subject to the following conditions: 1) that the street be constructed to an average grade of 15% and a maximum grade of 20%; 2) that the project comply with the Erosion Control Ordinance and that the final plans be shown with 2' contours instead of 5'. This public hearing was opened on December 17, 1985, and continued until January 7, 1986. On January 7, 1986, the developers requested that the public hearing be continued until January 21, 1986.

Councilman Michalove said since it is his understanding that the developer has not yet complied with the Erosion Control Ordinance and our Engineering Division is not satisfied with the plans presented, he would move to continue the public hearing until such information is received by the Engineering Division. This motion was seconded by Councilman Frank.

Councilman Tisdale said he had visited the site of the proposed Buck Cove Development, and felt the developer had complied with all conditions except the Erosion Control Ordinance. He said the City staff would have control over not issuing the permit for the Buck Cove Development until the Erosion Control Plan is in order.

Larry Buckner, Developer of the Buck Cove Development, in response to questions from members of Council, said that he did not start work on construction of the Buck Cove Development as indicated. He said they had started construction and grading of a road. He said they had built one 4-unit building that did not require approval under the Group Development regulations.

Verl Emrick, Director of Planning, in response to questions from members of Council, said no one had spoken in opposition to the Buck Cove Development at the Planning and Zoning Commission meeting. He said Council could approve the Buck Cove Development contingent upon the Erosion Control Plan being approved. He did say, however, that grading is not allowed by a developor prior to Council approving a Group Development Plan.

A discussion was held relative to a misunderstanding between the City staff and the developer for approval of the project.

Mayor Bissette said the Erosion Control Plan could administratively be approved before a building permit is issued for construction of the project.

After discussion, Councilman Michalove's motion to continue the public hearing was unanimously opposed.

Verl Emrick, Director of Planning, proceeded to review the details of the Buck Cove Development. He said five buildings, with four units each, would be constructed in phases. He said water and sewer, parking, and police and fire services are adequate for development. He said the developer had complied with all conditions outlined by the Planning and Zoning Commission except for the Erosion Control Plan.

Upon inquiry of Councilman Michalove, Mr. Buckner said he felt the Erosion Control Plan could be submitted to the Engineering Division within the next two weeks.

the Asheville City Council regarding the quality of programming provided on its basic service tier. In our opinion, the programming provided by Asheville Cablevision on its basic service tier is inferior to that provided by other cablevision companies operating in our geographical area. Asheville Cablevision's basic service tier excludes ESPN, WTBS, WGN, and other popular stations carried on the basic tiers of neighboring cablevision companies. It is our hope that you will improve the programming provided on your basic service tier so that it will be comparable with other cablevision companies operating in this area.

Very truly yours,

ASHEVILLE CITY COUNCIL

Louis Bissette
Mayor

LB/cah
cc: Wade H. Hargrove, Attorney for Asheville Cablevision
Max O. Cogburn, Attorney for Asheville Cablevision
Members of the Asheville City Council

Vice-Mayor Frank moved that the Mayor proceed with providing Asheville Cablevision with the above letter. This motion was seconded by Councilman Tisdale and carried unanimously.

Councilman Bratton said she was still concerned with the number of calls and inquiries she receives relative to the programming on the basic service. She requested that Asheville Cablevision continue to look into changing their programming on the basic service and restoring ESPN to the basic tier.

Councilman Tisdale noted that the program scheduling by Asheville Cablevision is not something the Asheville City Council can regulate.

Ralph Bishop said he felt Asheville should invite other cable companies to do business in the City of Asheville.

Mike McPhee, with Asheville Cablevision, said they would continue to look at their basic service programming, and the value of the Reception and Information service. He said he could not make a commitment to put the programs excluded from the basic service in March back on the basic service. He said Asheville Cablevision could no longer afford to carry these high priced programs on the basic service tier. He said Asheville Cablevision is committed to doing everything they can to prove they are a very good company for the City of Asheville.

CONTINUATION OF PUBLIC HEARING - GROUP DEVELOPMENT REVIEW - BUCK COVE DEVELOPMENT

2. A public hearing relative to a group development review for the Buck Cove Development was continued.

Mayor Bissette said the Asheville Planning and Zoning Commission, at a meeting held November 13, 1985, reviewed the site plan of the proposed Buck Cove Development (Townhouses) to be located on Old Chunns Cove Road. The site

ORDINANCE NO. 1567 - AN ORDINANCE REPEALING ORDINANCE NO. 1287 KNOWN AS AN ORDINANCE ESTABLISHING THE ASHEVILLE DOWNTOWN COMMISSION AND IN LIEU THEREOF A NEW ORDINANCE BE ADOPTED

4. Consideration was given to an ordinance repealing Ordinance No. 1287 known as an ordinance establishing the Asheville Downtown Commission and in lieu thereof a new ordinance be adopted.

Mayor Bissette said this amendment will change the composition, powers and purpose of the Asheville Downtown Commission.

Verl Emrick, Director of Planning, said the proposed ordinance had been reviewed and approved by the current Asheville Downtown Commission. He reviewed the details of the proposed ordinance stating that the composition of the members would change from seven versus the current eleven members.

Mayor Bissette said this ordinance was previously presented to members of Council and would not be read in its entirety unless there was a specific request to do so.

Vice-Mayor Frank moved for the adoption of Ordinance No. 1567. This motion was seconded by Councilman Michalove.

On a roll call vote of 6-0, Ordinance No. 1567 passed on first reading.

ORDINANCE NO. 1563 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED (WORDING AMENDMENTS - ARTICLE 2. DEFINITIONS, SECTION 30-2-1. GENERAL, ARTICLE 6. SECTION 30-6-1. GROUP DEVELOPMENTS/PLANNED UNIT DEVELOPMENTS)

5. Consideration was given to the third reading of Ordinance No. 1563, an ordinance amending Ordinance No. 322, known as "an ordinance providing for the Zoning of the City of Asheville," as amended (Wording Amendments - Article 2. Definitions, Section 30-2-1. General, Article 6, Section 30-6-1. Group Developments/Planned Unit Developments).

Mayor Bissette said this ordinance will amend the zoning ordinance to provide that any mobile home park, camper-trailer park, or any multi-family residential building or structure containing three (3) or more individual units will require approval pursuant to Group Developments/Planned Unit Developments. This ordinance passed on first reading on January 7, 1986 and on second reading on January 14, 1986.

Mayor Bissette said this ordinance was previously read on first and second reading and would not be reread in its entirety unless there was a specific request to do so.

On a roll call vote of 6-0, Ordinance No. 1563 passed on third and final reading.

Complete text of Ordinance No. 1563 will be found in Ordinance Book No. 10 at page 353 and 354.

After discussion, Mayor Bissette closed the public hearing at 5:10 p.m.

Councilman Tisdale moved to approve the Group Development Plan for the Buck Cove Development subject to the conditions outlined by the Planning and Zoning Commission, and further that the City staff report back to Council within two weeks relative to the Erosion Control Plan for the Buck Cove Project. This motion was seconded by Councilman Bratton and carried unanimously.

ORDINANCE NO. 1566 - AN ORDINANCE AMENDING SECTION 28 - 81.6 OF ARTICLE IV, SPEED REGULATIONS, OF CHAPTER 28 OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE

3. Consideration was given to an ordinance amending Section 28 - 81.6 of Article IV, Speed Regulations, of Chapter 28 of the Code of Ordinances of the City of Asheville.

Mayor Bissette said this ordinance establishes a municipal ordinance declaring a 45 mph speed limit on South Charlotte Street and rescinds the existing 45 mph speed limit on South Tunnel Road (Speed Limit reverts to statutory 35 mph). This is a concurring ordinance with the North Carolina Department of Transportation.

Mayor Bissette said this ordinance was previously presented to members of Council and would not be read in its entirety unless there was a specific request to do so.

Councilman Price moved for the adoption of Ordinance No. 1566. This motion was seconded by Councilman Michalove.

On a roll call vote of 6-0, Ordinance No. 1566 passed on first reading.

Councilman Michalove moved to suspend the rules and proceed to the second reading of Ordinance No. 1566. This motion was seconded by Councilman Tisdale and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1566 passed on second reading.

Councilman Michalove moved to suspend the rules and proceed to the third and final reading of Ordinanace No. 1566. This motion was seconded by Councilman Tisdale and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1566 passed on third and final reading.

Complete text of Ordinance No. 1566 will be found in Ordinance Book No. 10 at page 357.

RESOLUTION NO. 86-11 - RESOLUTION AUTHORIZING THE MAYOR ON BEHALF OF THE CITY OF ASHEVILLE TO EXECUTE AN AGREEMENT BY AND BETWEEN THE CITY OF ASHEVILLE AND THE ASHEVILLE/BUNCOMBE WATER AUTHORITY

8. Consideration was given to a resolution authorizing the Mayor on behalf of the City of Asheville to execute an agreement by and between the City of Asheville and the Asheville/Buncombe Water Authority.

Mayor Bissette said this resolution will authorize the Mayor to execute an agreement between the City and the Asheville/Buncombe Water Authority for certain expenses associated with a watershed management plan which would generate income from timber sales at North Fork Reservoir. The Fiscal 1986-87 budget will include revenues from timber sales estimated to be $93,500. The estimated cost of the timber management program will be $30,000.

Mayor Bissette said members of Council were previously furnished copies of the resolution and it would not be read in its entirety unless there was a specific request to do so.

Councilman Michalove said it was his recollection that the Water Agreement was carefully written to exclude the City of Asheville participating in costs such as this.

In response to Councilman Michalove's concern, Corporation Counsel Slawter said such provisions that the City of Asheville would not incur expenses with timber sales was not incorporated into the written Water Agreement. He said evidently that was a silent agreement.

A discussion was held relative to the need for a timber management program at the watershed.

A discussion was also held relative to including a 180 day termination provision in the agreement.

Councilman Bratton moved for the adoption of Resolution No. 86-11 and to amend the agreement to include a 180 day termination provision. This motion was seconded by Vice-Mayor Frank and carried on a voice vote of 5-1 with Councilman Michalove voting "no".

Complete text of Resolution No. 86-11 will be found in Resolution Book No. 10 at page 420.

RESOLUTION NO. 86-12 - RESOLUTION CORRECTING EXPIRATION DATE OF MEMBER'S TERM TO THE ASHEVILLE REGIONAL AIRPORT AUTHORITY

9. Consideration was given to a resolution correcting expiration date of member's term to the Asheville Regional Airport Authority.

Mayor Bissette said Resolution 83-219 adopted on December 20, 1983 provided that Harold C. Enloe was reappointed as a member of the Asheville Regional Airport Authority to serve a term of four years, expiring December 15, 1987. Pursuant to the November 29, 1979, Agreement between the County of Buncombe and the City of Asheville creating the Asheville Regional Airport Authority, the terms of its members are to expire on June 30. The second term of Harold C. Enloe as a member of the Authority is to expire on June 30, 1988 or at such date as his successor is duly appointed and qualified.

RESOLUTION NO. 86-9 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN EASEMENT AGREEMENT WITH THE UNITED STATES OF AMERICA, U.S. FOREST SERVICE, DEPARTMENT OF AGRICULTURE

6. Consideration was given to a resolution authorizing the City Manager to execute an easement agreement with the United States of America, U.S. Forest Service, Department of Agriculture.

Mayor Bissette said members of Council were furnished copies of the resolution and it would not be read in its entirety unless there was a specific request to do so.

Upon motion of Councilman Price, seconded by Vice-Mayor Frank, Resolution No. 86-9 was unanimously adopted.

Complete text of Resolution No. 86-9 will be found in Resolution Book No. 15 at page 418.

RESOLUTION NO. 86-10 - RESOLUTION AUTHORIZING THE MAYOR TO SIGN A CONTRACT ON BEHALF OF THE CITY OF ASHEVILLE WITH TERRY BROTHERS CONSTRUCTION COMPANY, INC. FOR THE PROJECT KNOWN AS BEVERLY ROAD SEWER LINE IMPROVEMENTS, CONTRACT NO. E-033/W-012/85

7. Consideration was given to a resolution authorizing the Mayor to sign a contract on behalf of the City of Asheville with Terry Brothers Construction Company, Inc. for the project known as Beverly Road Sewer Line Improvements, Inc., Contract No. E-033/W-012/85.

Mayor Bissette said bids were solicited for the project known as the Beverly Road Sewer Line Improvements. The project includes installation of approximately 1409 linear feet of eight inch (8") diameter sewer line, nine (9) manholes and associated appurtenances. Installation and materials will conform to plans and specifications issued by the City of Asheville. This resolution will authorize the Mayor to execute a contract with Terry Brothers Construction Company, Inc., the lowest responsible bidder, for Beverly Road Sewer Line improvements project and any change orders for the contract. Cost to be incurred by the Water and Sewer Services Department and Public Works Department. Water and Sewer Services Department share equals $31,106.64 and Public Works Department share equals $4,825.00. Funds are budgeted in the Capital construction (33) fund.

Mayor Bissette said members of Council were previously furnished copies of the resolution and it would not be read in its entirety unless there was a specific request to do so.

Upon motion of Councilman Michalove, seconded by Vice-Mayor Frank, Resolution No. 86-10 was unanimously adopted.

Complete text of Resolution No. 86-10 will be found in Resolution Book No. 15 at page 419.

LAWSUIT - COOPER CONSTRUCTION VS. CITY OF ASHEVILLE (ALLEGED BREACH OF CONTRACT)

The Acting City Manager said the City of Asheville was served with a lawsuit involving Cooper Construction Company versus the City of Asheville relative to an alleged breach of contract.

Mayor Bissette referred the lawsuit to the Corporation Counsel for investigation and recommendation.

SCHEDULING PUBLIC HEARING - UMTA FUNDS - TRANSPORTATION OF WHEEL-CHAIRED INDIVIDUALS AND SEMI-AMBULATORY PERSONS

Vice-Mayor Frank moved to schedule a public hearing to consider proposals for the transportation of wheel-chaired individuals and semi-ambulatory persons by private agency for February 18, 1986. This motion was seconded by Councilman Price and carried unanimously.

RALPH BISHOP - LOTTERY SALES IN THE CITY OF ASHEVILLE

Ralph Bishop spoke to members of Council relative to the lottery sales in the City of Asheville. He also said that he did not feel that Asheville City Council members should go to Lake Junaluska when they could do their work at the City Hall Building. He said he felt this was an unnecessary expense to the taxpayers.

ADJOURNMENT TO EXECUTIVE SESSION

Councilman Tisdale moved to adjourn the meeting to go into executive session to discuss personnel. This motion was seconded by Councilman Bratton and carried unanimously.

The meeting adjourned at 6:00 p.m.

_____ Mayor

_____ City Clerk

Mayor Bissette said copies of the resolution were previously furnished to members of Council and it would not be read in its entirety.

Upon motion of Vice-Mayor Frank, seconded by Councilman Michalove, Resolution No. 86-12 was unanimously adopted.

Complete text of Resolution No. 86-12 will be found in Resolution Book No. 15 at page 421.

BIDS - ANNUAL CONTRACT FOR BITUMINOUS CONCRETE MATERIALS (ASPHALT)

10. Consideration was given to a motion relative to bids received for an annual contract for bituminous concrete materials.

Mayor Bissette said sealed bids were received for a term purchase contract to furnish the City's annual requirement for Bituminous Concrete Materials (asphalt) for force account resurfacing and street repair. One bid was received. A market survey was conducted and the bid price was found to be consistent with other cities and the state's current costs. Clark Brown, Director of Public Works, recommends the acceptance of the bid submitted by APAC-Carolina in the total amount of $161,737.50. Purchases will be made as required. Funding is budgeted in the Public Work's Department operating and capital budgets.

Councilman Price moved to award the bid for bituminous concrete materials to APAC-Carolina in the total amount of $161,737.50. This motion was seconded by Councilman Tisdale and carried unanimously.

BIDS - VEHICLES FOR POLICE DEPARTMENT AND PUBLIC WORKS DEPARTMENT

11. Consideration was given to a motion relative to bids received for vehicles for the Asheville Police Department and the Public Works Department.

Mayor Bissette said sealed bids were invited to furnish twelve (12) Patrol (blue and white) and (8) Unmarked Police Vehicles for the Police Department; (1) 1/2 ton pick-up truck and (1) 3/4-ton, four-wheel drive pick-up truck for Public Works, Street Division; and (2) 1/2-ton pick-up trucks for Public Works, Sanitation Division. Three (3) bids were received. All award recommendations are made to the low bidder for each item, all of which have the lowest energy efficient cost meeting specification requirements. Total Awards - $261,832.54. Matthews Ford, Inc. - $236,983.00 and Apple Tree Chevrolet, Inc. - $24,849.54. Funds for these purchases will come from the Police Department and Public Works Department Capital Equipment appropriations for FY 85-86.

Councilman Michalove moved to accept the bids as recommended for the vehicles for the Police Department and the Public Works Department awarding Matthews Ford, Inc. a total amount of $263,983.00 and Apple Tree Cheverolet, Inc. $24,849.54. This motion was seconded by Councilman Price and carried unanimously.

CLAIMS - CAROL'S CABINET CENTER (WATER) - BRENDA HANCOCK (WATER)

The Acting City Manager presented claims received from Carol's Cabinet Center and Brenda Hancock.

Mayor Bissette referred the claims to the Corporation Counsel for investigation and recommendation.

ORDINANCE NO. 1569 - BUDGET ORDINANCE AMENDMENT TO PROVIDE FUNDING TO PURCHASE VIDEO DISPLAY TERMINALS AND PRINTER

4. Consideration was given to a budget ordinance amendment to provide funding to purchase video display terminals and printers.

Mayor Bissette said this budget ordinance amendment is to provide funding for computer upgrade and purchase of terminals which are now being leased. These terminals can be purchased for the same cost as would be expended within two years of a three-year lease. The total amount is $11,202.00, from Data Processing funds.

Mayor Bissette said copies of this ordinance were previously furnished to members of Council, and it would not be read in its entirety unless there was a specific request to do so.

Councilman Michalove moved for the adoption of Ordinance No. 1569. This motion was seconded by Councilman Tisdale.

On a roll call vote of 6-0, Ordinance No. 1569 passed on first and final reading.

Complete text of Ordinance No. 1569 will be found in Ordinance Book No. 10 at page 363.

ORDINANCE NO. 1567 - AN ORDINANCE REPEALING ORDINANCE NO. 1287, KNOWN AS AN ORDINANCE ESTABLISHING THE ASHEVILLE DOWNTOWN COMMISSION AND IN LIEU THEREOF A NEW ORDINANCE BE ADOPTED

5. Consideration was given to the second reading of Ordinance No. 1567, an ordinance amending Ordinance No. 1287, known as an ordinance establishing the Asheville Downtown Commission including its composition, terms of office, and other general provisions.

Mayor Bissette said this amendment will change the composition, powers and purpose of the Asheville Downtown Commission. This ordinance passed on first reading on January 21, 1986.

Mayor Bissette said this ordinance was previously read on first reading and would not be reread in its entirety unless there was a specific request to do so.

At the request of the Corporation Counsel, Vice-Mayor Frank moved to amend Ordinance No. 1567 incorporating several typographical and language errors in the ordinance. This motion was seconded by Councilman Boland and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1567 passed on second reading.

RESOLUTION NO. 86-13 - RESOLUTION APPROVING AND CONSENTING TO THE CREATION OF A SECURITY INTEREST IN AND COLLATERAL ASSIGNMENT OF THE CABLE TELEVISION FRANCHISE OF AMERICAN CABLE TV INVESTORS TO SECURE INDEBTEDNESS

6. Consideration was given to a resolution approving and consenting to the creation of a security interest in and collateral assignment of the cable television franchise of American Cable TV Investors to secure indebtedness.

Tuesday - January 28, 1986 - 4:00 p.m.

Regular Meeting

Present: Mayor Louis Bissette, Presiding; Vice-Mayor Mary Lloyd Frank; Councilmen Wilhelmina Bratton, Walter R. Boland, Kenneth M. Michalove, and George Tisdale; Corporation Counsel William F. Slawter; Acting City Manager William F. Wolcott, Jr.; and Deputy City Clerk Carol Hensley.

Absent: Councilman Norma T. Price

INVOCATION

The invocation was given by Councilman Boland.

APPROVAL OF THE MINUTES - JANUARY 21, 1986 MEETING

1. Consideration was given to the approval of the minutes of the Janaury 21, 1986, meeting.

Mayor Bissette announced the approval of the minutes as submitted.

PROCLAMATION - FEBRUARY 2 - 8, 1986, AS "CATHOLIC SCHOOLS WEEK"

2. Mayor Bissette read a proclamation proclaiming the week of February 2 - 8 as "Catholic Schools Week."

Mayor Bissette presented a proclamation to Mr. Bob McGratton, Principal of the Asheville Community Catholic School.

ORDINANCE NO. 1568 - BUDGET ORDINANCE AMENDMENT TO CLOSE OUT PRIOR YEAR FUND BALANCE FOR ON-GOING CDBG PROJECTS

3. Consideration was given to a budget ordinance amendment to close out prior year fund balance for on-going CDBG projects.

Mayor Bissette said this budget ordinance amendment is to close out prior year CDBG fund balance for on-going projects and appropriate funds to continue Incentive Housing and R-48 Close-out programs. He said $89,723 of revenue funds is to come from R-48 land sales and existing on-going projects.

Marvin Vierra, with the Community Development Department, explained the budget amendment and the funds involved.

Mayor Bissette said members of Council were previously furnished copies of the ordinance, and it would not be read in its entirety unless there was a specific request to do so.

Councilman Michalove moved for the adoption of Ordinance No. 1568. This motion was seconded by Councilman Boland.

On a roll call vote of 6-0, Ordinance No. 1568 passed on first and final reading.

Complete text of Ordinance No. 1568 will be found in Ordinance Book No. 10 at page 362.

Upon motion of Councilman Tisdale, seconded by Vice-Mayor Frank, Resolution No. 86-15 was unanimously adopted.

Complete text of Resolution No. 86-15 will be found in Resolution Book No. 15 at page 426.

RESOLUTION NO. 86-16 - RESOLUTION APPOINTING MEMBERS TO THE POLICEMEN'S PENSION/DISABILITY TASK FORCE

9. Consideration was given to a resolution appointing members to the Policemen's Pension/Disability Task Force.

Mayor Bissette said by Resolution No. 85-197, Council created a Policemen's Pension/Disability Task Force. This resolution will appoint the following individuals to the Task Force: 1) Chief Fred W. Hensley, City Staff Liaison; 2) Lt. Porter V. Fowler, Active Member of the Plan; 3) Capt. James Coffey, Inactive Member of the Plan; 4) Capt. John Best, Inactive Member of the Plan; 5) Mayor Louis Bissette, Board of Examiners Representative; 6) Vice-Mayor Mary Lloyd Frank, Board of Trustees Representative; 7) Councilman Norma T. Price, City Council Liaison; 8) Douglas Franklin, Retirement; Pension Professional Representative.

Mayor Bissette said copies of the resolution were previously furnished to members of Council, and it would not be read in its entirety unless there was a specific request to do so.

Upon motion of Councilman Tisdale, seconded by Councilman Boland, Resolution No. 86-16 was unanimously adopted.

Complete text of Resolution No. 86-16 will be found in Resolution Book No. 15 at page ~~427~~ 426.

APPROVAL OF CONSENT AGENDA

10. Consideration was given to a motion approving the consent agenda.

Mayor Bissette said the following items are of a routine nature, and they have been previously reviewed by the members of the City Council. Therefore, by unanimous vote to approve these items, the City Council may, pursuant to the procedures established in Ordinance No. 1008, adopt all of the items with one motion without the full reading and/or separate motion adopting each individual item. Upon the request of a citizen, a member of the City Council, and/or a member of the City staff, any single item scheduled for approval on the consent agenda may be considered separately.

A. Schedule a public hearing to rezone property located on the New Leicester Highway for February 18, 1986.

HIGHLIGHTS: The Asheville Planning and Zoning Commission, at a meeting held January 8, 1986, considered the petition of Mr. Wayne Hawkins that portions of Lots 35 and 41, Sheet 36, Ward 12, and Lot 323, Sheet 20, Ward 6, be rezoned from R-3 Residential District to CS Commercial Service District. The property is located on the New Leicester Highway. After review and discussion, the Commission voted to recommend to City Council that Lot 323, Sheet 20, Ward 5, be rezoned from R-3 Residential District to CS Commercial Service District.

Mayor Bissette said American Cable has advised the City that it has refinanced its cable television properties and has requested approval of the City Council to the refinancing insofar as it affects the cable television business of American Cable in the City.

Mayor Bissette said copies of the resolution were previously furnished to members of Council, and it would not be read in its entirety unless there was a specific request to do so.

Upon motion of Councilman Boland, seconded by Councilman Tisdale, Resolution No. 86-13 was unanimously adopted.

Complete text of Resolution No. 86-13 will be found in Resolution Book No. 15 at pages 422 and 423.

RESOLUTION NO. 86-14 - RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN THE NECESSARY DOCUMENTS FOR THE PURCHASE OF VIDEO DISPLAY TERMINALS AND PRINTERS FOR THE CITY OF ASHEVILLE, DEPARTMENT OF FINANCE, DATA PROCESSING DIVISION

7. Consideration was given to a resolution authorizing the City Manager to sign the necessary documents for the purchase of video display terminals and printers for the City of Asheville, Department of Finance, Data Processing Division.

Mayor Bissette said sealed bids were requested to furnish eleven (11) video display terminals and two (2) printers for the Data Processing Division. Burroughs Corporation in Asheville submitted the lowest responsive bid, meeting the City's specifications, terms and conditions. The total amount is $22,343.00. Funding for this purchase will be provided from the Data Processing Division appropriations, Account Code 50-441-0740.

Mayor Bissette said members of Council were previously furnished copies of the resolution, and it would not be read in its entirety unless there was a specific request to do so.

Upon motion of Vice-Mayor Frank, seconded by Councilman Tisdale, Resolution No. 86-14 was unanimously adopted.

Complete text of Resolution No. 86-14 will be found in Resolution Book No. 15 at page 424 and 425.

RESOLUTION NO. 86-15 - RESOLUTION AUTHORIZING THE EMPLOYEE SERVICES MANAGER TO EXECUTE ON BEHALF OF THE CITY OF ASHEVILLE A WORKERS' COMPENSATION AGREEMENT WITH CITY EMPLOYEE, WILLIAM WILMER

8. Consideration was given to a resolution authorizing the Employee Services Manager to execute on behalf of the City of Asheville a Workers' Compensation agreement with City employee, William Wilmer.

Mayor Bissette said on April 16, 1985, William Wilmer, a City employee, was injured in an accident arising out of and during the course and scope of his employment with the City. From this accident, the employee sustained twenty percent (20%) permanent partial disability of the left arm. This amounts to $10,502.40, and is budgeted in the Department of Public Works.

Mayor Bissette said copies of this resolution were previously furnished to members of Council, and it would not be read in its entirety unless there was a specific request to do so.

After review and discussion, the Commission voted to recommend approval of the site plan to City Council subject to the following: 1) that the site plan be reviewed as a "Conditional Use" in the R-3 Residential District by the Board of Adjustment; 2) that the City Council grant a variance to permit .82 parking spaces per unit as shown on the plans, but that the developer be able to provide two spaces per unit if necessary; 3) that the nursing home site be marked off as a future phase of the project; and 4) compliance with the Erosion Control Ordinance.

FISCAL IMPACT: None

E. Schedule a public hearing relative to rezoning property on Haywood Road for February 25, 1986. (Behind Ace Appliance on Knight Place)

HIGHLIGHTS: The Asheville Planning and Zoning Commission, at a meeting held July 10, 1985, considered the petition of Mr. Wayne Smith, of Ace Appliance, that Ward 5, Sheet 6, Lot 99½, be rezoned from R-3 Residential District to CS Commercial Service District. The property is located behind Ace Appliance on Knight Place. After review and discussion, the Commission voted to recommend to City Council that Ward 5, Sheet 6, Lot 99½ and Lot 99 be rezoned from R-3 Residential District to CS Commercial Service District. At the Council meeting of August 13, 1985, the petitioner withdrew his request for rezoning. Ace Appliance now wishes for the requested rezoning to be heard by City Council, and this motion will schedule the public hearing for February 25, 1986.

FISCAL IMPACT: None

Upon motion of Councilman Michalove, seconded by Vice-Mayor Frank, the consent agenda was unanimously approved.

CLAIMS - DIANE CARPENTER (WATER) - THOMAS [redacted] (PARKS AND RECREATION) - CHARMAINE ABRAMS (SEWER)

The Acting City Manager presented claims received from Diane Carpenter, Thomas Hunnicutt, and Charmaine Abrams.

Mayor Bissette referred the claims to the Corporation Counsel for investigation and recommendation.

LAWSUITS - JOHNNY RAY OWENS VS. R.E. GREENE AND J. L. GADDY (SECTION 1983 LAWSUIT - PERSONAL INJURY DUE TO ALLEGED VIOLATION OF CIVIL RIGHTS)

The Acting City Manager said the City was served on January 23, 1986, with a lawsuit in which the City of Asheville is a defendant involving Johnny Ray Owens vs. R. E. Green and J. L. Gaddy relative to Section 1983 lawsuit - personal injury due to alleged violation of civil rights.

Mayor Bissette referred the lawsuit to the Corporation Counsel for investigation and recommendation.

Staff advised the Commission that Lots 35 and 41, Sheet 36, Ward 12 were already zoned Commercial Service in their entirety.

FISCAL IMPACT: None

B. Schedule a public hearing for a site plan of Crownpointe Mobile Home Park to be located on North Louisiana Avenue for February 18, 1986.

HIGHLIGHTS: The Asheville Planning and Zoning Commission, at a meeting held January 8, 1986, reviewed the site plan of Crownpointe Mobile Home Park to be located on North Louisiana Avenue. The site plan was prepared by Ray Anders, R.L.S., for Mr. Allen Moss, Developer, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of the site plan to City Council subject to: 1) deletion of Lot #1 and provision of appropriate landscaping; 2) deletion of Lot #30 and redesign of Lot #31; 3) that a planted buffer and a solid barrier of chain link fence 6' high and slatted be provided on the western boundary as shown at the entrance and lot lines on Lots #30 and #31; 4) redrawing of the plat to include the "common area" and access from this mobile home park prior to going to City Council; and 5) compliance with Erosion Control Ordinance.

FISCAL IMPACT: None

C. Schedule a public hearing for a site plan of the proposed Barnard Grove Apartments to be located on Barnard Avenue for February 18, 1986.

HIGHLIGHTS: The Asheville Planning and Zoning Commission, at a meeting held January 8, 1986, reviewed the site plan of the proposed Barnard Grove Apartments to be located on Barnard Avenue. The site plan was prepared by James Samsel, Architect, for Mr. Kerry Lindsey, Developer, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of the site plan to City Council subject to: 1) documentation of access into the site; and 2) compliance with the Erosion Control Ordinance. The Commission further recommended that parking on one side only on Fenner Avenue be instituted as soon as possible.

FISCAL IMPACT: None

D. Schedule public hearing to review the site plan of a proposed Asheville Retirement Center to be located on Hendersonville Road for February 18, 1986.

HIGHLIGHTS: The Asheville Planning and Zoning Commission, at a meeting held January 8, 1986, reviewed the site plan of a proposed Asheville Retirement Center to be located on Hendersonville Road. The plan was prepared by LandDesign, Inc., Charlotte, N.C., for Oxford Development Corporation, Charlotte, N.C., Developer, and submitted in accordance with the Group Development Section of the Asheville Zoning ordinance.

Tuesday - February 4, 1986 - 4:00 p.m.

Regular Meeting:

Present: Mayor Louis Bissette, Presiding; Vice-Mayor Mary Lloyd Frank; Councilmen Wilhelmina Bratton, Norma T. Price, Kenneth Michalove, Walter R. Boland and George Tisdale; Corporation Counsel William F. Slawter; Acting City Manager William F. Wolcott, Jr.; Deputy City Clerk Carol Hensley.

Absent: None

INVOCATION

The invocation was given by Councilman Norma Price.

APPROVAL OF THE MINUTES - JANUARY 28, 1986 MEETING

1. Consideration was given to the approval of the minutes of the Janaury 28, 1986, meeting.

Mayor Bissette announced the approval of the minutes as submitted.

PROCLAMATION - FEBRUARY 9 - 15, 1986 - "NATIONAL SALUTE TO HOSPITALIZED VETERANS WEEK"

2. Mayor Bissette read a proclamation proclaiming the week of February 9 - 15, 1986, as "National Salute to Hospitalized Veterans Week."

Mayor Bissette presented the proclamation to Mr. Robert Dawson, with the V.A. Hospital.

PROCLAMATION - MONTH OF FEBRUARY, 1986 AS "HUMAN RELATIONS MONTH"

3. Mayor Bissette read a proclamation proclaiming the month of February, 1986, as "Human Relations Month."

Mayor Bissette instructed that a copy of the proclamation be given to Mr. Bob Smith, with the Asheville-Buncombe Community Relations Council.

PROCLAMATION - "FOUNDERS DAY IN THE AFRICAN METHODIST EPISCOPAL CHURCH" - SUNDAY, FEBRUARY 9, 1986

Mayor Bissette read a proclamation proclaiming Sunday, February 9, 1986, as "Founders Day in the African Methodist Episcopal Church."

Mayor Bissette presented the proclamation to Rev. Wendall Christopher, Pastor of the St. James African Methodist Episcopal Church.

ADJOURNMENT - EXECUTIVE SESSION

Vice-Mayor Frank moved to adjourn the meeting to Executive Session to discuss personnel and real estate matters. This motion was seconded by Councilman Tisdale and carried unanimously.

The meeting adjourned at 4:25 p.m.

MAYOR

CITY CLERK

Donald Lawrence, spoke in support of the ordinance stating that he had an interest and had worked for the proposed ordinance for the past four or five years. He said he had concerns with the state law adopted on July 1, 1979 in that curb signs for handicapped parking would be permitted until the signs served their useful life. He said he was concerned that the courts would not enforce the law. He said it was very important that the proposed ordinance be enforced.

Bernadette Thompson, member of the Mayor's Employment of the Handicapped Committee and of the Governor's Advocacy Council, spoke in support of the ordinance.

Mayor Bissette closed the public hearing at 4:28 p.m.

Councilman Bratton moved for the adoption of Ordinance No. 1570. This motion was seconded by Councilman Price.

On a roll call vote of 7-0, Ordinance No. 1570 passed on first reading.

PUBLIC HEARING - SITE PLAN OF PROPOSED EAGLE'S CREST RETIREMENT AND THE FORREST APARTMENTS - LOCATED ON THE CARMELITE MONASTERY SITE ON FAIRWAY DRIVE

5. A public hearing was held relative to the site plan of the proposed Eagle's Crest Retirement Center and the Forrest Apartments to be located on the Carmelite Monastary site on Fairway Drive.

Mayor Bissette said the Planning and Zoning Commission at a meeting held December 11, 1985, reviewed the site plan of the proposed Eagle's Crest Retirement Center and The Forrest Apartments to be located on the Carmelite Monastery site on Fairway Drive. The site plan was prepared by Jan Wiegman, Architect, for the M. B. Corporation of Raleigh, N.C., Developer, and submitted in accordance with the Group Development Section of the Zoning Ordinance. After review and discussion, the Commission voted to accept the Staff Report and approve the project subject to the following conditions:

1. That parking for Eagle Crest be no less than one space per unit;

2. That the plans prior to going to City Council be submitted showing a relocation of the tennis courts.

3. That the Department of Public Works approve the specifications and design of street requested for dedication or that portion thereof; and

4. Compliance with Erosion Control Ordinance.

The Commission further recommended that City Council consider officially closing Carmelite Drive.

Mayor Bissette opened the public hearing at 4:31 p.m.

Mayor Bissette requested that Council excuse him from participation and vote on the issue relative to the Eagle's Crest Retirement Center and The

PUBLIC HEARING - AMENDING ZONING ORDINANCE TO PROVIDE FOR HANDICAPPED OFF-STREET PARKING REQUIREMENTS

ORDINANCE NO. 1570 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED (HANDICAPPED OFF-STREET PARKING REQUIREMENTS)

4. A public hearing was held relative to amending the Zoning Ordinance to provide for handicapped off-street parking requirements.

Mayor Bissette said this wording amendment will provide a requirement for handicapped off-street parking.

Mayor Bissette opened the public hearing at 4:15 p.m.

The Deputy City Clerk presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Corporation Counsel Bill Slawter said the proposed ordinance had been discussed by members of Council on several occasions. He said the purpose of the ordinance was to institute handicapped parking requirements on parking lots that were in existence prior to the enforcement of the current State Building Code requirements. He said this ordinance would require all public parking lots to have at least one handicapped parking space for each additional 50 parking spaces. He said, however, that this ordinance, unlike the State Building Code, would exempt parking lots with 10 or fewer spaces which were in existence prior to September 1, 1973, and off-street parking spaces which are clearly designated as reserved for employee parking or long-term parking. He said this ordinance also has a provision that owners of parking lots have until July 1, 1986, to come into compliance and to correct the necessary signage as required by the State Building Code, requiring the signs to be replaced with a R7-8 or R7-8(a) sign.

Corporation Counsel Slawter said that he had alot of contact with handicapped persons in the City of Asheville and Roger Foushee, with the Governor's Advocacy Council. He said the Governor's Advocacy Council supported the ordinance except they were concerned that the ordinance exempts parking areas with ten or fewer spaces and parking areas that are clearly designated for employee parking or long-term parking.

Upon inquiry of Councilman Price, the Corporation Counsel said he was not aware of any other City in the State of North Carolina that has a similar ordinance relative to handicapped off-street parking. He said the Zoning Enforcement Officer would be responsible for enforcement of the ordinance and would see that all businesses affected would be notified.

Councilman Bratton thanked members of the Mayor's Employment of the Handicapped Committee for bringing this matter to Council's attention and for working with the City staff in the drafting of the ordinance.

Paul Godfrey, a member of the Mayor's Employment of the Handicapped Committee, spoke in support of the ordinance. He said the problems that handicapped persons have in parking have been real.

He said the projects would be constructed in compliance with all City standards. He said time is of the essence in order for the developers to put their financial package in order. He said the proposed site plans were designed to comply with the present zoning of the property. He said the plans indicate that the projects exceed the requirements of the Zoning Ordinance. He said modifications were made in the plans to accommodate the neighborhood's requests. He said the projects would serve as a buffer between the Beverly Hills residential area and the businesses on Swannanoa River Road. He said the entrance to the project would be from Swannanoa River Road to encourage traffic to avoid streets in the Beverly Hills area. He said the developers plan to close Carmelite Drive. He said a portion of the property currently has deplorable water and sewer lines and the developers plan to correct that situation at no expense to the City. He said 7.2 percent of the site will be covered with buildings allowing for a wide buffer all around the project, and in his opinion, would be separate from Beverly Hills.

Mr. Wiegman said the project would not be subsidized housing and would not be a nursing facility. He said the rent on the apartments in the Retirement Center would be approximately $900 per month. He said traffic would be minimized due to most of the residents not having an automobile. He said the knoll on the property would be shaved down to about 50' in order to accommodate the project. He said the buildings on the project would be no closer than 200' from a property line. He said the majority of the property would be left in its natural state. He said the project would provide housing for the area, and would bring increased revenue to the City.

Upon inquiry of Councilman Bratton, Mr. Wiegman said although grading would be done on the knoll, there would be no problems with Erosion Control. He said catch basins would be built during construction of the project.

In response to Councilman Price and Councilman Boland, Mr. Wiegman said trees would be left on the property and the developers intend to plant additional trees.

Mr. Wiegman also said the fence currently surrounding the property would be taken down and eventually would be replaced with a fence to compliment the project and the neighborhood.

Councilman Michalove said he had noted some sewerage problems in the bottom area, at the creek, when he recently walked the property in question.

Upon inquiry of Councilman Michalove, Mr. Enrick, Planning Director, said Council could approve the project subject to final approval by Council of the landscaping plan and the design of the replacement fence.

Cathy Duke, representing the M.B. Corporation, developer, requested Council's approval of the proposed projects. She said her firm has constructed a lot of rental properties including subsidized housing units. She said the management has not yet set final rent payments, but the Retirement Center rentals would be in the neighborhood of $900 per month which would include meals, housekeeping services, transportation services, and maintenance. She said rental for The Forrest Apartments would begin at about $350 per month. She said the new fence that would be erected would blend in with the environment.

Forrest Apartments because his law firm represents the project's architect. He said he had discussed this with the Corporation Counsel and members of Council and they had agreed that this would be a conflict of interest.

Councilman Tisdale moved to excuse Mayor Bissette from participation and vote on the issue relative to the site plan of the Eagle's Crest Retirement Center and The Forrest Apartments. This motion was seconded by Councilman Boland and carried unanimously.

The Deputy City Clerk presented the Notice to the Public setting the time and date for the public hearing and the affidavit of publication.

Mayor Bissette turned the meeting over to Vice-Mayor Frank.

Verl Emrick, Director of Planning, said the Planning and Zoning Commissioin reviewed and approved the site plan of the proposed Eagle's Crest Retirement Center and The Forrest Apartments subject to several conditions as outlined by Mayor Bissette. He showed slides of the physical location of the property in question showing the roads and terrain of the property. He said several previous Councils have dealt with this property in the past, dating back to 1963, when the then Council rezoned a portion of the property to OI Office Institutional to allow the Carmelites to use the property for a mortuary. He said when the property was rezoned in 1963 an agreement was signed by the Carmelites to provide that if the property was ever sold the zoning would revert either to RA-6 or to the highest adjoining residential use, which would be R-1. He said, however, a court ruling in 1979 designated the property as partly R-2 and mostly, Office Institutional and that the 1963 agreement constituted contract zoning and is illegal. He said the Carmelites no longer live on the property in question, and all the bodies buried on the property had been removed. He said it was also his opinion and the Corporation Counsel's opinion that the 1963 zoning and agreement was contract zoning and can not be legal. He said the Planning and Zoning Commission, during their hearing on the proposed site plans, ruled that the zoning issue was not in question and the only question for them to deal with was the approval or disapproval of the site plans.

Mr. Emrick then proceeded to explain the details of the projects. He said the total project would consist of 324 units, Eagle's Nest Retirement Center with 164 units and The Forrest Apartments with 160 units. He said 90 of the units would be constructed on the R-2 Residential District zone and 234 units constructed on the Office Institutional District zone. He said the retirement center will be one five-story building with three wings extending from a community facility in the center. He said the apartment complex will contain 30 units with one bedroom, 94 with two bedrooms and 36 units with three bedrooms and will include tennis courts, a pool, and a community center.

Mr. Emrick said the site density is substantially lower than the density requirements in the Zoning Ordinance. He said water and sewer facilities are adequate for the project. He said the entrance streets, being off Swannanoa River Road, will be public to allow for public bus transportation.. He said other streets in the project would be private.

Jan Wiegman, Architect for the Eagle's Crest Retirement Center, spoke in support of the project, and requested Council's approval of the projects.

Mrs. Bob Wisham, of 22 Pinehurst Road, spoke in opposition to the project stating that the area would be overpopulated, additional traffic, noise and pollution. She said she was also concerned about the type of fencing that would be erected on the property.

Attorney Bill Moore, appearing on behalf of Attorney Harold Bennett, representing the Carmelite Nuns said only the approval or disapproval of the site plans for the project were before Council today, and that the zoning of the property has nothing to do with the proposed project. He said his clients had expressed their intention to petition for rezoning of the property to a R-3 Residential District classification.

Mr. Ned Guttman of Beechwood Road, spoke in opposition of the projects stating Council should consider the harmony of the existing neighborhood as required by the review of group developments.

Vice-Mayor Frank closed the public hearing at 6:30 p.m.

Councilman Tisdale moved for the approval of the site plans as revised January 27, 1986, contingent upon the following conditions:

1) That portion of the project included within the areas zoned R-2 be amended so as to include no more than six units per acre.

2) That no less than one parking space per unit be provided in the project.

3) That the Department of Public Works approve the specifications and design of the street requested for dedication.

4) Compliance with the Erosion Control Ordinance.

5) The closing of Carmelite Drive except for emergency vehicle use.

6) Fencing

7) Buffering

This motion was seconded by Councilman Boland.

Councilman Bratton made a substitute motion to remand the issue to the Planning and Zoning Commission in order that the zoning issue and the site plan approval can be separated and the zoning issue be cleared up prior to Council's consideration. This motion was seconded by Councilman Price.

In response to Councilman Michalove, Mr. Wiegman said a delay of 45-60 days for the project to be remanded to the Planning and Zoning Commission and the zoning issue cleared would be detrimental to the project. He said he knew the process taken by Planning and Zoning and it would take longer than 60 days to resolve the zoning issue. He said the project has been before the Planning and Zoning Commission for six months.

At the request of Council, Vice-Mayor Frank called for a 15-minute recess to discuss parliamentary procedures, and to discuss new language for Councilman Tisdale's motion for approval of the project.

Ken Boisseau, architect for The Forrest Apartments, said this property was chosen for the projects because of its uniqueness and its views. He said his firm would use a design to compliment the neighborhood. He said only preliminary plans are presently available, but he would be happy to submit the final design later. He said they would be using some financing from the North Carolina Housing Finance Agency which would require that 20 percent of the units be made available to medium income individuals. He said financing is available now but if the project is delayed much longer, it may not be financially feasible to continue with the project. He said the plans would have to be approved by the North Carolina Housing Finance Agency and the Department of Housing and Urban Development.

Upon inquiry of Councilman Michalove, Mr. Boisseau said, if the project is approved, construction would begin this year with a 12-15 month construction time period.

Tom Bell, an attorney, said he represents the Beverly Hills Homeowners Association who are of the opinion that the property is not legally zoned for a project of this nature. He cited sections of Ordinance No. 480, adopted in 1963, the agreement provided for in Ordinance No. 480; General Statute 1-54.1 stating that a 9 month statute of limitation exist to contest an ordinance; and Section 30-12-2 relating to the adoption of a new zoning ordinance and stating, in his opinion, that the new 1975 zoning ordinance did not repeal Ordinance No. 480. He contended that the court ruling in 1979 was not legal and that Ordinance No. 480 is a valid zoning ordinance.

Mr. Bell said the proposed site plans violate the zoning ordinance, and further that a portion of the property on which the project is proposed to be constructed is subject to Beverly Hills Restrictive Covenants which require only single family residences. He said it is also unclear to him as to who the actual owners of the property are because the property has been transferred from one diocese to the other, without a deed being recorded.

Mike Moody of 32 Fairway Drive, speaking in opposition to the project, said Council should consider the 410 households in the Beverly Hills area. He said the 1963 agreement by the Carmelites actually promised that the property would not be used for developments such as is proposed for this property. He read a letter from the Carmelite Nuns dated November 15, 1985, stating that they felt they had an obligation to have the property zoned to a residential district zoning. He said he had a petition signed by property owners on Ambler Road protesting the projects.

Mr. Bill Barley of 68 Fairway Drive, reiterated comments made by Mr. Moody. He said the owners of the property and the proposed developers are evading and denying the promises made in 1963 when the property was rezoned. He said Council should live up to their promises. He said he opposed the project, and requested that Council act wisely and legally. He suggested that the matter be remanded to the Planning and Zoning Commission in order for the owners of the property to request or petition for rezoning of the property to a single-family residential district or to a R-1 classification.

Tyrus Maynard spoke in opposition to the project and questioned the process of rezoning the property.

Don Roberts, Beverly Hills resident, spoke in opposition to the project. He said he had been involved in the 1979 Court ruling.

On a voice vote of 4-2, Councilman Bratton's substitute motion failed with Vice-Mayor Frank, Councilmen Michalove, Tisdale and Boland voting "no".

Councilman Tisdale then moved to approve the site plans as revised January 27, 1986, contingent upon the following conditions:

1. That portion of the project included within the area zoned R-2 be amended so as to include no more than six units per acre.

2. That no less than one parking space per unit be provided in that portion of the project known as Eagle's Crest and all other portions of the project (The Forrest Apartments) provide two (2) spaces per unit.

3. That the Department of Public Works approve the specifications and design of the street requested for dedication.

4. Compliance with the Erosion Control Ordinance.

5. The closing of Carmelite Drive except for emergency vehicle use and erection of a gate by the developer.

6. Fencing and landscaping plans be subject to final approval by City Council.

This motion was seconded by Councilman Boland.

Councilman Price questioned how far the proposed swimming pool would be from any property line. Mr. Wiegman responded that it would be about 100 ft. from the property line.

Councilman Bratton said she would not be voting on the motion because the issue before the Council is not clear in light of the zoning dispute, and this matter should have been resolved prior to Council's consideration of the site plans.

On a voice vote of 6-0, Councilman Tisdale's motion was adopted.

A discussion was held relative to Councilman Bratton's decision not to vote and it was the Corporation Counsel's opinion that Councilman Bratton's abstention was an "aye" vote.

Councilman Bratton said she felt a precedent had previously been set, during the organizational meeting of the Council, relative to "abstaining votes".

Councilman Price moved that Council instruct the Corporation Counsel to consult with the Attorney for the owners of the Carmelite property to determine if the rezoning of the property will be requested, and for Council to initiate the rezoning if the diocese chooses not to; further that the requested rezoning include the property that faces Ambler Road to R-1 if the diocese declines to request the change. This motion was seconded by Councilman Michalove and carried on voice vote of 5-1, with Councilman Bratton voting "no".

Councilman Price was excused from the meeting at 7:35 p.m.

In response to Vice-Mayor Frank, Corporation Counsel Slawter said it would be in order for Council to proceed with voting on Councilman Bratton's substitute motion.

A discussion was held, instituted by the Beverly Hills residents, relative to reopening the public hearing to receive additional comments from the opponents since the developers had had additional time to speak.

Councilman Tisdale withdrew his motion for approval in order that the public hearing could be reopened for additional comments by the Beverly Hills residents. Councilman Boland accepted the withdrawal of the motion.

Councilman Bratton did not wish for her substitute motion to be withdrawn.

At this time, Vice-Mayor Frank reopened the public hearing for additional comments.

Don Roberts, Beverly Hills resident, said this matter is so important that Council should not consider the time elements of the developers.

Bill Barley of 68 Fairway Drive, questioned Council approving a $10 million dollar project without first receiving explicit detailed plans for the project.

Bill Moore said the project could not be financed if the project was delayed for any length of time.

Ned Guttman voiced concern that if Council approved the project the developers could go ahead with the construction of the project prior to the zoning issue being resolved. He spoke in support of Councilman Bratton's substitute motion.

Jan Wiegman said they were informed from the very beginning that the property is zoned properly for this type of development. He said even if the Carmelites request rezoning of the property to the R-3 classification, the proposed project would still be an allowable use.

Mike Moody said he felt Council had an obligation to consider the zoning issue.

Clyde Collier of Ambler Road, an adjoining property owner to the proposed projects, spoke in opposition to the projects.

Vice-Mayor Frank again closed the public hearing at 7:20 p.m.

In response to Councilman Michalove, Corporation Counsel Slawter said Council had the options of approving or disapproving the project, or remanding the project to the Planning and Zoning Commission. He said members of Council could institute rezoning of the property. He said he felt strongly in his opinion that the 1963 rezoning of the property with a provision for an agreement with the Carmelite Nuns was contract zoning and illegal. He said the Beverly Hills Homeowners restrictive covenants on a portion of the property in question was a private issue and would have to be resolved between the parties.

Mayor Bissette said this ordinance was previously read on first and second reading and would not be reread in its entirety unless there was a specific request to do so.

On a roll call vote of 6-0, Ordinance No. 1567 passed on third and final reading.

Complete text of Ordinance No. 1567 will be found in Ordinance Book No. 10 at page 358, 359, 360, and 361.

RESOLUTION NO. 86-... - RESOLUTION APPOINTING MEMBERS TO THE ASHEVILLE FAIR HOUSING COMMISSION

8. Consideration was given to a resolution appointing members to the Asheville Fair Housing Commission.

Mayor Bissette said members of Council had discussed this resolution during their Pre-Council work session, and it was the consensus to continue action on this resolution until February 11, 1986.

Councilman Tisdale moved to continue action on the resolution appointing members to the Asheville Fair Housing Commission until February 11, 1986. This motion was seconded by Councilman Michalove and carried unanimously.

RESOLUTION NO. 86-17 - RESOLUTION APPOINTING MEMBERS TO THE BOARD OF DIRECTORS OF THE ASHEVILLE-BUNCOMBE COMMUNITY RELATIONS COUNCIL

9. Consideration was given to a resolution appointing members to the Board of Directors of the Asheville-Buncombe Community Relations Council.

Mayor Bissette said Mr. Jesse Ray, Jr., has resigned as a member of the Asheville-Buncombe Community Relations Council. The terms of Betty Jo Sullivan and the Chief of Police expired on December 31, 1985. This resolution will appoint Betty Jo Sullivan to serve the unexpired term of Jesse Ray, Jr. The Police Chief will be reappointed for a three year term, and Dwight B. Mullen will be appointed for a three year term.

Mayor Bissette said members of Council were furnished copies of the resolution and it would not be read in its entirety unless there was a specific request to do so.

Upon motion of Councilman Boland, seconded by Vice Mayor Frank, Resolution No. 86-17 was unanimously adopted.

Complete text of Resolution No. 86-17 will be found in Resolution Book No. 15 at page 428. 429 mon

RESOLUTION NO. 86-18 - RESOLUTION APPOINTING MEMBERS TO THE ASHEVILLE DOWNTOWN COMMISSION

10. Consideration was given to a resolution appointing members to the Asheville Downtown Commission.

Mayor Bissette said pursuant to Ordinance No. 1567 this resolution will appoint seven (7) members to the Downtown Commission as follows:

Councilman Bratton left the Council meeting unexcused.

Mayor Bissette resumed the chair.

ORDINANCE NO. 1553 - AN ORDINANCE DESIGNATING A BUILDING AND PROPERTY KNOWN AS "THE MANOR" AT 265 CHARLOTTE STREET IN ASHEVILLE, NORTH CAROLINA, CURRENTLY OWNED BY TRANSCO FINANCIAL GROUP, LTD., AS HISTORIC PROPERTY

6. Consideration was given to the second reading of Ordinance No. 1553, an ordinance designating a building and property known as "The Manor" at 265 Charlotte Street in Asheville, North Carolina, currently owned by Transco Financial Group, Ltd., as historic property.

Mayor Bissette said "The Manor" was completed in 1899 as an "English Country Inn in America", and is a rare surviving example of the picturesque resort development so important to the history of the North Carolina mountains. The Historic Resources Commission of Asheville and Buncombe County has demonstrated the historic significance of the building, and the Division of Archives and History of North Carolina Department of Cultural Resources has endorsed the findings of the Commission. This ordinance passed on first reading on November 26, 1985. At the December 3, 1985, Council meeting, Council postponed the second reading of this ordinance until February 4, 1986, due to a pending process of completing foreclosure proceedings against the property.

Mayor Bissette said this ordinance was previously read on first reading and would not be reread in its entirety unless there was a specific request to do so.

Mayor Bissette said he had been informed by the Acting City Manager that Attorney Jerry Crowe, representing the owner of "The Manor Inn", had requested that the second reading of this ordinance be continued until next week, February 11, 1986.

Councilman Michalove moved to postpone the second reading of Ordinance No. 1553 until February 11, 1986. This motion was seconded by Councilman Frank and carried unanimously.

ORDINANCE NO. 1567 - AN ORDINANCE REPEALING ORDINANCE NO. 1287, KNOWN AS AN ORDINANCE ESTABLISHING THE ASHEVILLE DOWNTOWN COMMISSION AND IN LIEU THEREOF A NEW ORDINANCE BE ADOPTED

7. Consideration was given to the third reading of Ordinance No. 1567, an ordinance amending Ordinance No. 1287, an ordinance establishing the Asheville Downtown Commission including its composition, terms of office, and other general provisions.

Mayor Bissette said this amendment will change the composition, powers and purpose of the Asheville Downtown Commission. This ordinance passed on first reading at the January 21, 1986, meeting and on second reading at the January 28, 1986, meeting.

I have attached the Personal Property Disposal Report For Period July 1 through December 31, 1985, for presentation to City Council.

NRD:jg

ATTACHMENT: Personal Property Disposal Report 7/1/85 - 12/31/85

PERSONAL PROPERTY DISPOSAL REPORT
FOR THE PERIOD OF JULY 1, 1985
THROUGH DECEMBER 31, 1985
PREPARED: JANUARY 22, 1986

REQUEST FOR QUOTATION FILE NO. 1653 July 1, 1985 - December 31, 1985

Item(s) Sold	Date of Sale	Amount Received	Sold To
Approx. 300 used tires	8-5-85	$119.95	Fletcher Tire Service, Arden, NC
(2) framed posters (1) 35mm Nikon Camera	8-9-85	$465.00	Logan Delany Asheville, NC
Approx. 250 used tires	11-12-85	$176.00	Mack's Used Auto Parts Asheville, NC
	TOTAL	$760.95	

RESOLUTION NO. 86-19 - RESOLUTION AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE CERTAIN CONTRACTS FOR BELE CHERE 1986

12. Consideration was given to a resolution authorizing the City Manager or his designee to execute certain contracts for Bele Chere 1986.

Mayor Bissette said this resolution will authorize the City Manager or his designee to execute contracts for Bele Chere 1986. These contracts will be between the City and the various performers, vendors and a talent agency.

Mayor Bissette said members of Council were previously furnished copies of the resolution and it would not be read in its entirety unless there was a specific request to do so.

Upon motion of Councilman Boland, seconded by Vice Mayor Frank, Resolution No. 86-19 was unanimously adopted.

Complete text of Resolution No. 86-19 will be found in Resolution Book No. 15 at page ~~430~~ 431.

1) Walter R. Boland, City Council appointee
2) Wilhelmina B. Bratton, City Council appointee
3) Jesse Ledbetter, County Commissioner appointee
4) Wayne Montgomery, County Commissioner appointee
5) Robert J. Carr, Chairman
6) John N. Daniel, Private sector appointee
7) David C. Swann, Private sector appointee

Mayor Bissette said members of Council were previously furnished copies of the resolution and it would not be read in its entirety unless there was a specific request to do so.

Upon motion of Councilman Tisdale, seconded by Councilman Michalove, Resolution No. 86-18 was unanimously adopted.

Complete text of Resolution No. 86-18 will be found in Resolution Book No. 15 at page ~~429~~ 430.

REPORT FROM PURCHASING DIRECTOR RELATIVE TO DISPOSAL OF CITY OWNED PERSONAL PROPERTY

11. Mayor Bissette accepted the following report from the Purchasing Director relative to disposal of City owned personal property and said on June 25, 1985, Council adopted Resolution No. 85-99 describing procedures for disposing of personal property valued at less than five hundred dollars ($500.00) for any one item or group of items. This resolution requires the Purchasing Director to report to Council any property disposed of. This report is for the period of July 1 through December 31, 1985.

"MEMORANDUM TO: William F. Wolcott, Jr.
Acting City Manager

FROM: Norwood R. Dunn
Purchasing Director

DATE: January 22, 1986

SUBJECT: Report on Disposal of City Owned Personal Property Valued at Less Than $500.00 For The Period July 1 Through December 31, 1985

Resolution No. 85-99 adopted by City Council on June 25, 1985, prescribed procedures for disposing of personal property valued at less than five hundred dollars ($500.00) for any one item or group of items. The regulations attached to and made part of Resolution No. 85-99 requires the Purchasing Director to make a written report to City Council as to any property disposed of as follows:

> On the first day of February report any property disposed of pursuant to these procedures for the period from July 1 through December 31 of the previous year.
>
> The report to include a description of property sold or exchanged; to whom it was sold, or with whom exchanged; and the amount of money or other considerations received for each sale.

Tuesday, February 11, 1986 - 4:00 p.m.

Regular Meeting

Present: Mayor Louis Bissette, Presiding; Vice-Mayor Mary Lloyd Frank; Councilmen Wilhelmina Bratton, Norma Price, Kenneth Michalove and Walter R. Boland; Corporation Counsel William Slawter; Acting City Manager William F. Wolcott, Jr.; Deputy City Clerk Carol Hensley.

Absent: Councilman George Tisdale (attending meeting at the Institute of Government in Chapel Hill)

INVOCATION

The invocation was given by Vice-Mayor Mary Lloyd Frank.

APPROVAL OF THE MINUTES - FEBRUARY 4, 1986 MEETING

1. Consideration was given to the approval of the minutes of the February 4, 1986 meeting.

Mayor Bissette announced the approval of the minutes as submitted.

PUBLIC HEARING - SITE PLAN OF 60-66 HAYWOOD STREET

2. A public hearing was held relative to the site plan of 60-66 Haywood Street.

Mayor Bissette said the Planning and Zoning Commission at a meeting held December 11, 1985, reviewed the site plan of 60-66 Haywood Street showing adaptive reuse of two buildings for residential and retail purposes. The site plan was prepared by James Samsel, Architect, for City Assets Corporation, Developer, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of the site plan to City Council.

Mayor Bissette opened the public hearing at 4:11 p.m.

The Deputy City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said this site plan would involve the Jared's and Eagles Building on Haywood Street. He said 13 residential units were planned for the upper level of the building and 3 retail shops proposed for the lower level. He said City Assets Corporation, Developer, would also have an office in this building. He said the Planning and Zoning Commission had recommended approval of the site plan.

Jim Samsel, Architect for the project, stated that the developers are ready to begin the project and are waiting final approval of the site plan by Council. He said the rental rates for the apartment units have not been established. He said the project would cost approximately $750,000, all funding would be from private sources.

RESOLUTION NO. 86-20 - RESOLUTION AUTHORIZING THE MAYOR TO SIGN A SUBORDINATION AGREEMENT IN CONNECTION WITH BURGERLAND ASSOCIATES UDAG LOAN

13. Consideration was given to a resolution authorizing the Mayor to sign a Subordination Agreement in connection with Burgerland Associates UDAG Loan.

Mayor Bissette said the City of Asheville is a holder of a note dated January 16, 1980, in the amount of $35,000 secured by a deed of trust. Burgerland Associates, a North Carolina general partnership is the obligor under said note and deed of trust. This deed of trust is presently subordinate to a deed of trust in favor of the Northwestern Bank in the sum of $184,000. Burgerland Associates has arranged new financing within NCNB in the amount of $170,000 and has requested the City to subordinate its lien rights to a new note in favor of NCNB. This subordination agreement will not adversely affect the City's security under said note and deed of trust.

Mayor Bissette said members of Council were previously furnished copies of the resolution and it would not be read in its entirety unless there was a specific request to do so.

Upon motion of Councilman Boland, seconded by Councilman Michalove, Resolution No. 86-20 was unanimously adopted.

Complete text of Resolution No. 86-20 will be found in Resolution Book No. 15 at page ~~431~~ and ~~432~~ 432 and 433.

CLAIMS - JOANNE MCKINNEY (WATER) - MAXINE TREADWAY (PARKS AND RECREATION) - JAMES GETER (SANITATION) - LANGDON AMMEN (FIRE) - ROSSWOOD MOBILE HOME PARK/ JIM MORGAN (POLICE)

14. The Acting City Manger presented claims received from Joanne McKinney, Maxine Treadway, James Geter, Langdon Ammen, and Jim Morgan.

Mayor Bissette referred the claims to the Corporation Counsel for investigation and recommendation.

LAWSUITS - MARSHA MORGAN MCFEE VS. CITY OF ASHEVILLE (WRONGFUL ACT - SANITATION)

15. The Acting City Manager said the City was served on January 29, 1986 with a lawsuit in which the City of Asheville is a defendant in the case involving Marsha Morgan McFee versus City of Asheville (wrongful act - Sanitation).

Mayor Bissette referred the lawsuit to the Corporation Counsel for investigation and recommendation.

ADJOURNMENT

Councilman Tisdale moved to adjourn the meeting at 7:50 p.m. This motion was seconded by Councilman Boland and carried unanimously.

MAYOR

CITY CLERK

Mayor Bissette said this ordinance was previously read on first reading and will not be reread in its entirety unless there was a specific request to do so.

Jerry Crow, Attorney, representing the lendor of funds to restore "The Manor", said a recent venture toward restoring "The Manor" did not work out and foreclosure proceedings were instituted. He said a Deed of Record would be filed tomorrow, naming Matthew Ellam, Trustee for a Canadian group as the owner. He said he did not feel that the ordinance designating "The Manor" as historic property would be of benefit or encourage the owners to utilize the best use of the property and asked that Council table the second reading of the ordinance until a later date. He said he felt this ordinance would put a burden on the property owners, as far as seeking approval to do any restoration or anything to the property. He said, in fact, it may impede such restoration.

Upon inquiry of Councilman Price, Mr. Crow said he was aware of the Conservation Overlay Ordinance and felt that this ordinance would also be burdensome to the owners of the property. He requested at least a 90-day delay on the second reading of the ordinance.

Upon inquiry of Council, the Corporation Counsel said the rules and regulations adopted by City Council allows them to continue or table action on a motion for 100 days.

Councilman Price questioned whether or not the neighborhood residents or the Historic Resources Commission had been made aware of the request for the delay of the second reading of the ordinance. It was noted that no contact had been made with the neighborhood or the Historic Resources Commission relative to the request for the delay.

After discussion, Councilman Price moved to continue the second reading of Ordinance No. 1553 until May 20, 1986. This motion was seconded by Councilman Boland and carried unanimously.

Upon inquiry of Councilman Boland, Mr. Crow said to his knowledge the property owners did not intend to demolish the building.

At the request of Councilman Michalove, Council requested that the City Manager contact the Historic Resources Commission and the Grove Park Sunset Citizens Association and advise them of the action taken by City Council on this particular ordinance. It was also requested that a report be given to members of Council by the Inspections Division on the condition of the building on May 20, 1986.

RESOLUTION NO. 86-21 - RESOLUTION APPOINTING MEMBERS TO THE ASHEVILLE FAIR HOUSING COMMISSION

5. Consideration was given to a resolution appointing members to the Asheville Fair Housing Commission.

Mayor Bissette said pursuant to Ordinance No. 1539 adopted on October 15, 1985, this resolution will appoint seven (7) members to the Asheville Fair Housing Commission as follows:

Upon inquiry of Ralph Bishop, Mayor Bissette said the reason for Council reviewing the project was that all projects consisting of 3 or more apartments require approval of Council.

Mayor Bissette closed the public hearing at 4:20 p.m.

Councilman Michalove moved for the approval of the site plan of 60-66 Haywood Street. This motion was seconded by Councilman Price and carried unanimously.

ORDINANCE NO. 1570 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED (HANDICAPPED OFF-STREET PARKING REQUIREMENTS)

3. Consideration was given to the second reading of Ordinance No. 1570, an ordinance amending Ordinance No. 322, known as "an ordinance providing for the zoning of the City of Asheville," as amended (handicapped off-street parking requirements).

Mayor Bissette said this wording amendment will provide a requirement for handicapped off-street parking. This ordinance passed on first reading on February 4, 1986.

Mayor Bissette said this ordinance was previously read on first reading and would not be reread in its entirety unless there was a specific request to do so.

Donna Cator, Chairperson for the Mayor's Committee on Employment of the Handicapped, thanked members of Council for their consideration of the Handicapped Parking Ordinance.

On a roll call vote of 6-0, Ordinance No. 1570 passed on second reading.

ORDINANCE NO. 1553 - AN ORDINANCE DESIGNATING A BUILDING AND PROPERTY KNOWN AS "THE MANOR" AT 265 CHARLOTTE STREET IN ASHEVILLE, NORTH CAROLINA, CURRENTLY OWNED BY TRANSCO FINANCIAL GROUP, LTD., AS HISTORIC PROPERTY

4. Consideration was given to the second reading of Ordinance No. 1553, an ordinance designating a building and property known as "The Manor" at 265 Charlotte Street in Asheville, North Carolina, currently owned by Transco Financial Group, Ltd., as historic property.

Mayor Bissette said "The Manor" was completed in 1899 as an "English Country Inn in America", and is a rare surviving example of the picturesque resort development so important to the history of the North Carolina Mountains. The Historic Resources Commission of Asheville and Buncombe County has demonstrated the historic significance of the building, and the Division of Archives and History of North Carolina, Department of Cultural Resources, has endorsed the findings of the Commission. This ordinance passed on first reading on November 26, 1985. At the December 3, 1985, Council meeting, Council postponed the second reading of this ordinance until February 4, 1986 due to a pending process of completing foreclosure proceedings against the property. At the February 4, 1986, meeting Council continued the second reading until February 11, 1986.

Mayor Bissette said the Asheville City Council has decided that the proposed four year, two stream quality and storm-water modeling study is needed to evaluate existing storm drainage problems and to develop methods of correction and prevention. The proposed $286,000 study is subsidized by a fifty percent (50%) Federal Grant and supported by other State and Local Agencies resulting in a total City of Asheville commitment of $30,000. The proposal is flexible and allows for the expansion of the study to include other streams should additional funding or other grants or participation become available during the course of the four year study. He said funds have been approved in the amount of $45,000 for this grant.

Tom Tarrant, City Engineer, spoke in support of the resolution, stating that the US Geological Survey is very interested in working with property in the mountains and felt this was a very beneficial project.

Councilman Boland said he felt this project would also cover the City of Asheville in case of emergencies during the interim period of four years.

Councilman Price noted that the Land-of-Sky Regional Council had contributed greatly to the study done on storm water drainage in the past year.

Mayor Bissette said members of Council were previously furnished copies of the resolution and it would not be read in its entirety unless there was a specific request to do so.

Upon motion of Councilman Boland, seconded by Councilman Frank, Resolution No. 86-22 was unanimously adopted.

Complete text of Resolution No. 86-22 will be found in Resolution Book No. 15 at Page ~~435~~ 436.

RESOLUTION NO. 86-23 - RESOLUTION REGARDING EMPLOYEE USE OF VEHICLES OWNED BY THE CITY OF ASHEVILLE, NORTH CAROLINA

8. Consideration was given to a resolution regarding employee use of vehicles owned by the City of Asheville, North Carolina.

Mayor Bissette said the 1985 Tax Act enacted by the United States Congress repeals various sections of the Tax Reform Act of 1984, concerning personal use of employer-provided vehicles. The federal legislation defines an employee's personal use of an employer-furnished vehicle as a taxable fringe benefit and includes commuting to and from work within the term "personal use". The City provides certain municipal vehicles to its employees for use in municipal business, including commuting to and from work for employees who are "on call". Pursuant to state law (N. C. Gen. Stat. sec. 14-247), the City of Asheville prohibits its employees from using municipal vehicles for any personal purposes whatsoever.

Mayor Bissette said members of Council were previously furnished copies of the resolution and it would not be read in its entirety unless there was a specific request to do so.

Betty Jo Sullivan
James M. Pressley
Gladys P. Forney
Dwight B. Mullen, Chairman
Dennis Kinney
Doug Bebber
Tom West

Mayor Bissette said members of Council were previously furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Boland, seconded by Councilman Price, Resolution No. 86-21 was unanimously adopted.

Complete text of Resolution No. 86-21 will be found in Resolution Book No. 15 at Page 434.

ORDINANCE NO. 1571 - BUDGET ORDINANCE AMENDMENT TO ESTABLISH $45,000 FOR THE CITY OF ASHEVILLE STORM WATER MODELING PROJECT

6. Consideration was given to a budget ordinance amendment to establish $45,000 for the City of Asheville Storm Water Modeling Project.

Bob Wurst, Director of Audit and Budget, said it is a practice of the City of Asheville to appropriate funds anticipated from grants in the budget. He said this budget amendment would appropriate the local share of $30,000 for the Storm Water Modeling Project and $15,000 for contingency.

Councilman Price moved for the adoption of Ordinance No. 1571. This motion was seconded by Councilman Boland.

On a roll call vote of 6-0, Ordinance No. 1571 passed on first and final reading.

Complete text of Ordinance No. 1571 will be found in Ordinance Book No. 10 at Page ~~367~~ 368 mon

RESOLUTION NO. 86-22 - RESOLUTION TO ACCEPT THE OCTOBER 21, 1985, PROPOSAL BY THE UNITED STATES GEOLOGICAL SURVEY FOR A FOUR YEAR, TWO STREAM QUALITY AND STORM-WATER MODELING STUDY AND TO AUTHORIZE THE MAYOR TO EXECUTE AN AGREEMENT ON BEHALF OF THE CITY OF ASHEVILLE BY AND BETWEEN THE CITY OF ASHEVILLE AND THE UNITED STATES GEOLOGICAL SURVEY OF THE DEPARTMENT OF INTERIOR FOR SAID STUDY

7. Consideration was given to a resolution to accept the October 21, 1985, proposal by the United States Geological Survey for a four year, two stream quality and storm-water modeling study and to authorize the Mayor to execute an agreement on behalf of the City of Asheville by and between the City of Asheville and the United States Geological Survey of the Department of Interior for said study.

Upon motion of Vice-Mayor Frank, seconded by Councilman Price, Resolution No. 86-25 was unanimously adopted.

Complete text of Resolution No. 86-25 will be found in Resolution Book No. 15 at Page ~~440~~. 441

RESOLUTION NO. 86-26 - RESOLUTION AUTHORIZING FREE PARKING AT METERED PARKING SPACES ON FEBRUARY 28, MARCH 1 AND MARCH 2, 1986 FOR THE SOUTHERN CONFERENCE BASKETBALL TOURNAMENT

11. Consideration was given to a resolution authorizing free parking at metered parking spaces on February 28, March 1 and March 2, 1986 for the Southern Conference Basketball Tournament.

The Acting City Manager read the resolution.

Upon motion of Councilman Michalove, seconded by Vice-Mayor Frank, Resolution No. 86-26 was unanimously adopted.

Complete text of Resolution No. 86-26 will be found in Resolution Book No. 15 at Page ~~441~~. 442

RESOLUTION NO. 86-27 - RESOLUTION AUTHORIZING THE HOUSING AUTHORITY OF THE CITY OF ASHEVILLE TO MAKE APPLICATION FOR A BEAUTIFICATION GRANT FOR BINGHAM HEIGHTS, DEAVERVIEW, LEE-WALKER HEIGHTS, PISGAH VIEW AND KLONDYKE APARTMENTS

12. Consideration was given to a resolution authorizing the Housing Authority of the City of Asheville to make application for a beautification grant for Bingham Heights, Deaverview, Lee-Walker Heights, Pisgah View and Klondyke Apartments.

Johnny Hayes, with the Housing Authority, said the State of North Carolina Department of Crime Control and Public Safety through the Governors Crime Commission, has announced the potential availability of funds up to $50,000 for selected juvenile justice and delinquency prevention projects. He said the Housing Authority of the City of Asheville sees the need to provide the families of youthful offenders and at-risk youth with programs that will enhance the family and deter juvenile delinquency. He said this resolution will authorize the Executive Director of the Housing Authority of the City of Asheville to submit an application in the amount of $49,284.44 to the Governors Crime Commission for the beautification programs.

Mayor Bissette said members of Council were previously furnished copies of this resolution and it would not be read in its entirety unless there was a specific request to do so.

Upon motion of Councilman Price, seconded by Vice-Mayor Frank, Resolution No. 86-27 was unanimously adopted.

Complete text of Resolution No. 86-27 will be found in Resolution Book No. 15 at Page ~~442~~. 443

Upon motion of Vice-Mayor Frank, seconded by Councilman Boland, Resolution No. 86-23 was unanimously adopted.

Complete text of Resolution No. 86-23 will be found in Resolution Book No. 15 at Page 436, 437 and 438. and 439. mss

RESOLUTION NO. 86-24 - RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF ASHEVILLE TO MAKE APPLICATION FOR A COMPUTER ENRICHMENT PROGRAM

9. Consideration was given to a resolution authorizing the Mayor of the City of Asheville to make application for a Computer Enrichment Program.

Mayor Bissette said the State of North Carolina has established a grant program known as Community-Based Alternatives through the North Carolina Department of Human Resources, and has made funds available for Community-Based Alternative programs in Buncombe County. State funds in the amount of $5,500 is available to provide an enrichment program in three neighborhoods with local match in the amount of $4,170 to be provided by the City through in-kind staff services and departmental supplies in place at the centers. This resolution will authorize the Mayor to make application in the amount of $5,500 to the N. C. Department of Human Resources for a Computer Enrichment Program at the William C. Reid Memorial, Montford, and Stephens-Lee Recreation Centers.

Mayor Bissette said members of Council were previously furnished copies of the resolution and it would not be read in its entirety unless there was a specific request to do so.

Upon motion of Councilman Michalove, seconded by Vice-Mayor Frank, Resolution No. 86-24 was unanimously adopted.

Complete text of Resolution No. 86-24 will be found in Resolution Book No. 15 at Page 439. 440. mss

RESOLUTION NO. 86-25 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A RIGHT-OF-WAY ENCROACHMENT AGREEMENT WITH THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION FOR THE INSTALLATION OF CONDUIT AND WIRING FOR TRAFFIC SIGNAL AND FIRE ALARM SERVICE ON BILTMORE AVENUE

10. Consideration was given to a resolution authorizing the Mayor to execute a right-of-way encroachment agreement with the North Carolina Department of Transportation for the installation of conduit and wiring for traffic signal and fire alarm service on Biltmore Avenue.

Mayor Bissette said this resolution will authorize the Mayor to execute a right-of-way encroachment agreement with the North Carolina Department of Transportation for the installation of a three (3") inch underground conduit and wiring for traffic signal and fire alarm service. He said funding for this work has been approved and is available as a part of the South Pack Square Streetscape Project.

Mayor Bissette said members of Council were previously furnished copies of the resolution and it would not be read in its entirety unless there was a specific request to do so.

Tuesday - February 18, 1985 - 4:00 p.m.

Regular Meeting

Present: Mayor Louis Bissette, Presiding; Vice-Mayor Mary Lloyd Frank; Councilmen Norma T. Price, Walter Boland, George Tisdale and Kenneth Michalove; Corporation Counsel William F. Slawter; Acting City Manager William F. Wolcott, Jr., Deputy City Clerk Carol Hensley

Absent: Councilman Wilhelmina Bratton

INVOCATION

The invocation was given by Councilman Walter Boland.

APPROVAL OF THE MINUTES - FEBRUARY 11, 1986 MEETING

1. Consideration was given to the approval of the minutes of the February 11, 1986 meeting.

Mayor Bissette announced the approval of the minutes as submitted with the correction of a typographical error.

PROCLAMATION - FEBRUARY 16-22, 1986 - "GEORGE WASHINGTON WEEK"

2. Mayor Bissette read a proclamation proclaiming February 16-22, 1986 as "George Washington Week."

PROCLAMATION - FEBRUARY 18, 1986 - "SAVE THE MOUNTAINS DAY"

2a. Mayor Bissette read a proclamation proclaiming February 18, 1986 as "Save the Mountains Day" in connection with the Department of Energy's proposal to locate a nuclear waste storage site in Western North Carolina.

Mayor Bissette presented the proclamation to Dr. James Laird.

PUBLIC HEARING - PROPOSALS FOR THE TRANSPORTATION OF WHEELCHAIRED INDIVIDUALS AND SEMI-AMBULATORY PERSONS BY PRIVATE AGENCY

3. A public hearing was held to consider proposals for the transportation of wheel-chaired individuals and semi-ambulatory persons by a private agency.

Mayor Bissette said the City of Asheville receives UMTA transportation funds. Federal regulations provide that a portion of these funds be used for the transportation of wheel-chaired and semi-ambulatory persons. UMTA regulations require that a public hearing be held relative to proposals received for providing this service. He said the contract funds will be drawn from UMTA funds received through operating assistance. The amount will be 3-1/2% of the operating funds for each fiscal year.

CLAIMS - MRS. ROBERT ADAMS (WATER) - CLARENCE BRADLEY (SANITATION)

The Acting City Manager presented claims received from Mrs. Robert Adams and Clarence Bradley.

Mayor Bissette referred the claims to the Corporation Counsel for investigation and recommendation.

RALPH BISHOP - LOTTERY SALES IN THE CITY OF ASHEVILLE

Ralph Bishop again spoke to members of Council relative to the lottery sales in the City of Asheville.

PROCLAMATION - FEBRUARY 16-22, 1986 - "NATIONAL RETAIL BAKERS WEEK"

Mayor Bissette read a proclamation proclaiming February 16-22, 1986, as "National Retail Bakers Week".

Mayor Bissette presented the proclamation to Dotson Wright with Rollin Pin Bakery.

Mr. Wright then presented members of Council with a cake decorated with the inscription of the City seal and the City Hall Building.

ADJOURNMENT

Upon motion of Councilman Boland, seconded by Councilman Nicholson, the meeting adjourned to executive session to discuss personnel.

The meeting adjourned at 5:10 p.m.

MAYOR

CITY CLERK

planning and design of mass transportation facilities and services so that the availability to elderly and handicapped persons, of mass transportation which they can effectively utilize, will be assured.

Furthermore, it is federal law that no otherwise qualified handicapped individual shall, solely by reason of his or her handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance. The courts have repeatedly held that this law requires, at the very least, "modest, affirmative steps" to accommodate the handicapped in public transportation. The regulations refer to the term "special efforts," and indicate that one way to meet those special efforts is to provide a minimum of 3.5% of the federal financial assistance under UMTA to a program for wheelchair users and semi-ambulatory handicapped persons.

In my opinion, the funding that will be provided in this proposal is overdue, but it is certainly better for it to arrive late -- than never -- for my client and others similarly situated. As this funding is overdue, I request that you give consideration to providing additional funding for this program, and that there be expenditures above and beyond the 3.5% that would include advertising, publicity and outreach for persons, like my client, who may have given up hope that they could find access to transportation within the City of Asheville.

I would remind the City Council that the 3.5% figure is described as a "minimum," and I would urge that the City seek to reach more persons with this proposal than are already in touch with either the American Red Cross or Pisgah Legal Services.

Thank you.

Mayor Bissette closed the public hearing at 4:16 p.m.

PUBLIC HEARING - REZONING PROPERTY LOCATED ON NEW LEICESTER HIGHWAY

ORDINANCE NO. 1572 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED - PROPERTY LOCATED ON LEICESTER HIGHWAY (MR. WAYNE HAWKINS PETITION)

4. A public hearing was held relative to rezoning property located on New Leicester Highway.

Mayor Bissette said the Asheville Planning and Zoning Commission at a meeting held January 8, 1986, considered the petition of Mr. Wayne Hawkins that portions of Lots 35 and 41, Sheet 36, Ward 12, and Lot 323, Sheet 20, Ward 6, be rezoned from R-3 Residential District to CS Commercial Service District. The property is located on the New Leicester Highway. After review and discussion, the Commission voted to recommend to City Council that Lot 323, Sheet 20, Ward 5, be rezoned from R-3 Residential District to CS Commercial Service District. Staff advised the Commission that Lots 35 and 41, Sheet 36, Ward 12 were already zoned Commercial Service in their entirety.

Mayor Bissette opened the public hearing at 4:10 p.m.

The Deputy City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Carl Owenby, with the Asheville Transit Authority, said the Federal Government allows 3.5 percent of Urban Mass Transportation Act funds to be used for transporation of wheel-chaired individuals and semi-ambulatory persons. He said one proposal had been received from the American Red Cross to furnish this service on an annual basis. He said since only one proposal had been received, a contract would be drawn up and brought back to Council for their consideration at a later date.

Barry Master, Attorney for the Pisgah Legal Services, read the following prepared statement:

REMARKS TO ASHEVILLE CITY COUNCIL ON TRANSPORTATION PROPOSAL FROM AMERICAN RED CROSS

February 18, 1986

My name is Barry Master. I am an attorney and am the executive director of Pisgah Legal Services. I wish to speak in favor of the proposal from the American Red Cross.

Pisgah Legal Services has been retained by an elderly, semi-ambulatory resident of the City of Asheville to protect her legal rights to have access to public transportation. She is unable to use the City bus system due to the high steps at the bus entrance. We have put her in touch with the American Red Cross, and they have provided her with transportation to medical appointments. There have been times, however, when she has called the Red Cross one to one and a half weeks in advance of her medical appointment, only to find that the Red Cross is booked and she cannot get a ride to her appointment. There is no other agency in town that we or the Red Cross have been able to refer her to, on these occasions, which would be able to get her to her medical appointments.

If the Red Cross had the additional funding that this proposal would provide, they would be able to purchase additional vehicles which could provide transportation to medical appointments for my client and at least 1,700 others who have been provided transportation in Asheville in the past year from the Red Cross.

Under the law, the City of Asheville, as a recipient of funds from the federal government under the Urban Mass Transportation Act, has a legal obligation towards my client and other handicapped and semi-ambulatory persons who are similarly situated. Her transportation is the City's responsibility. It is Federal law that elderly and handicapped persons have the same right as everyone else to utilize mass transportation facilities and services. The law requires that special efforts be made in the

Verl Emrick, Director of Planning, said the Planning and Zoning Commission had reviewed the site plan and had recommended approval subject to several conditions which have been met. He said the project complied with all requirements of the Zoning Ordinance and is being constructed at density level requirements for a mobile home park.

Upon inquiry of Councilman Price, Mr. Emrick said the project, even though outside the City limits, had been reviewed in its entirety by the Fire Marshall.

Mr. Emrick said, in the near future, it would be necessary to amend the Zoning Ordinance relative to mobile home parks to provide for larger lot sizes and design of pads for mobile homes since they are constructing larger mobile homes. He said this would also decrease the density ratio per acre.

Mayor Bissette closed the public hearing at 4:27 p.m.

Councilman Price moved to approve the site plan of the Crownpointe Mobile Home Park to be located on North Louisiana Avenue, subject to the conditions outlined by the Planning and Zoning Commission. This motion was seconded by Councilman Michalove and carried unanimously.

PUBLIC HEARING - SITE PLAN OF PROPOSED BARNARD GROVE APARTMENTS TO BE LOCATED ON BARNARD AVENUE

6. A public hearing was held relative to a site plan of the proposed Barnard Grove Apartments to be located on Barnard Avenue.

Mayor Bissette said the Asheville Planning and Zoning Commission at a meeting held January 8, 1986, reviewed the site plan of the proposed Barnard Grove Apartments to be located on Barnard Avenue. The site plan was prepared by James Samsel, Architect, for Mr. Kerry Kindsey, Developer, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of the site plan to City Council subject to: 1) documentation of access into the site; and 2) compliance with the Erosion Control Ordinance. The Commission further recommended that parking on one side only on Fenner Avenue be instituted as soon as possible.

Mayor Bissette opened the public hearing at 4:29 p.m.

The Deputy City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said the project would be in the vicinity of UNCA, and was reviewed by the Planning and Zoning Commission at it meeting held on January 8, 1986, and received a recommendation for approval, subject to documentation of access into the site and compliance with the Erosion Control Ordinance. He said Jack Westall, Attorney for the developer, has delivered documentation that access would be available on Barnard Avenue. He said plans had been submitted to the Engineering Division for the erosion control plan. He said the project had been approved by the Fire Marshall. He said the project would consist of 34 units and meets all requirements of the Zoning Ordinance.

Mayor Bissette opened the public hearing at 4:17 p.m.

The Deputy City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said the Planning and Zoning Commission had reviewed the requested rezoning and recommended approval. He said this property ties in with property already zoned Commercial Service. He said adjacent property owners had been notified of the requested rezoning and no one had opposed the rezoning. He said the proposed use of the property would be for a mini warehouse project.

Kenneth Pankow, with Pankow Engineering Company, said he represents Public Storage, Inc. who has a contract on the property at the present time, and spoke in favor of the rezoning.

Mayor Bissette closed the public hearing at 4:20 p.m.

Mayor Bissette said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety unless there was a specific request to do so.

Councilman Boland moved for the adoption of Ordinance No. 1572. The motion was seconded by Councilman Tisdale.

On a roll call vote of 6-0, Ordinance No. 1572 passed on first reading.

PUBLIC HEARING - SITE PLAN OF CROWNPOINTE MOBILE HOME PARK - NORTH LOUISIANA AVENUE

5. A public hearing was held relative to a site plan of Crownpointe Mobile Home Park, to be located on North Louisiana Avenue.

Mayor Bissette said the Asheville Planning and Zoning Commission at a meeting held January 8, 1986, reviewed the site plan of Crownpointe Mobile Home Park to be located on North Louisiana Avenue. The site plan was prepared by Ray Anders, R.L.S., for Mr. Allen Moss, Developer, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of the site plan to City Council subject to: 1) deletion of Lot #1 and provision of appropriate landscaping; 2) deletion of Lot #30 and redesign of Lot #31; 3) that a planted buffer and a solid barrier of chain link fence 6' high and slatted be provided on the western boundary as shown at the entrance and lot lines on Lots #30 and #31; 4) redrawing of the plat to include the "common area" and access from this mobile home park prior to going to City Council; and 5) compliance with Erosion Control Ordinance.

Mayor Bissette opened the public hearing at 4:22 p.m.

The Deputy City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Board of Adjustment; 2) that the City Council grant a variance to permit .82 parking spaces per unit as shown on the plans, but that the developer be able to provide two spaces per unit if necessary; 3) that the nursing home site be marked off as a future phase of the project; and 4) compliance with the Erosion Control Ordinance.

Mayor Bissette opened the public hearing at 5:02 p.m.

The Deputy City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said the Planning and Zoning Commission had reviewed the site plan and recommended approval, subject to the conditions outlined by Mayor Bissette. He said, subsequently, the Board of Adjustments had reviewed the project and approved the conditional use for Oxford Development. He said the project would consist of 292 units in 3 phases.

He said one of the conditions of the Planning and Zoning Commission is to permit .82 parking spaces per unit, however, there is enough room on the property to allow for 2 spaces per unit if necessary. He said water would be provided for the complex from Sweeten Creek Road. However, a new line in the area is contemplated for the future.

Larry Ford, Assistant Development Manager, for Oxford Development Corporation spoke in support of the project stating that the complex would consist of cottages, residential apartments, assisted living units, and a nursing home. He said residents would be furnished meals, housekeeping, laundry, transportation, and emergency medical care. He said he felt the project would enhance Asheville as a retirement area. He said construction is scheduled to start July 1. He said the complex would be used for individuals 65 and over.

Mayor Bissette closed the public hearing at 5:19 p.m.

Councilman Tisdale moved for the approval of the site plan of the proposed Asheville Retirement Center to be located on Hendersonville Road, subject to the conditions outlined by the Planning and Zoning Commission. This motion was seconded by Councilman Boland and carried unanimously.

ORDINANCE NO. 1570 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED (HANDICAPPED OFF-STREET PARKING REQUIREMENTS)

8. Consideration was given to the third reading of Ordinance No. 1570, an ordinance relative to amending the Zoning Ordinance to provide for handicapped off-street parking requirements.

Mayor Bissette said this wording amendment will provide a requirement for handicapped off-street parking. This ordinance passed on first reading on February 4, 1986, and on second reading on February 11, 1986.

Mayor Bissette said this ordinance was previously read on first and second reading and would not be reread in its entirety unless there was a specific request to do so.

He showed slides of the property in question. He said the Commission had recommended that parking on one side only on Fenner Avenue be instituted as soon as possible. He said the Traffic Engineer had reviewed the site plan and the site visibility at the access point.

Jim Samsel, Architect for the project, said the units would be rental units with 2 bedrooms.

Mrs. Grahams of Barnard Avenue spoke relative to the project, stating that she was concerned about erosion control that is currently an existing problem on Barnard Avenue, and the serious wash-off problems this project may cause. She said the project, as proposed, would cover most of the land with buildings and parking, and not allow for drainage control.

Harold Garland, of 88 Fenner Avenue, spoke relative to the project, stating that the area currently has water problems with volume and pressure, and this project would add an additional burden to the water problem, the current problems with traffic, and would create a hazard for the neighborhood. He said a project such as this should be done in an orderly fashion.

Jim Samsel said he had received assurance from the Water Department that the project, as proposed, would have sufficient water pressure. He said provisions are being made to control the erosion problems that currently exist and to control any storm drainage that this project would cause. He said the existing house on the property would be converted into 3 apartments and a new building would contain 7 units.

Upon inquiry of Mayor Bissette, the Acting City Manager said if the project was approved, he intended to implement parking on one side of Fenner Avenue.

Mayor Bissette closed the public hearing at 5:00 p.m.

Vice-Mayor Frank moved for the approval of the proposed Barnard Grove Apartments to be located on Barnard Avenue, subject to the conditions outlined by the Planning and Zoning Commission. This motion was seconded by Councilman Price and carried unanimously.

PUBLIC HEARING - PROPOSED ASHEVILLE RETIREMENT CENTER - HENDERSONVILLE ROAD

7. A public hearing was held relative to the site plan of the proposed Asheville Retirement Center to be located on Hendersonville Road.

Mayor Bissette said the Asheville Planning and Zoning Commission at a meeting held January 8, 1986, reviewed the site plan of a proposed Asheville Retirement Center to be located on Hendersonville Road. The plan was prepared by Land Design, Inc., Charlotte, N. C., for Oxford Development Corporation, Charlotte, N. C., Developer, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of the site plan to City Council subject to the following: 1) that the site plan be reviewed as a "Conditional Use" in the R-3 Residential District by the

Mayor Bissette said this resolution will approve the capital improvements made at the Asheville Regional Airport by the Asheville Regional Airport Authority since July 1, 1980, and approves the capital improvements in respect to an addition to the vehicle storage building, with a gasoline/diesel fuel station and with related site work at the Asheville Regional Airport.

Mayor Bissette said members of Council were previously furnished copies of the resolution and it would not be read in its entirety unless there was a specific request to do so.

Upon motion of Councilman Michalove, seconded by Councilman Price, Resolution No. 86-29 was unanimously adopted.

Complete text of Resolution No. 86-29 will be found in Resolution Book No. 15 at Page ~~444~~ 445.

RESOLUTION NO. 86-30 - RESOLUTION AUTHORIZING THE INTERIM CITY MANAGER TO EXECUTE ON BEHALF OF THE CITY OF ASHEVILLE AN AGREEMENT OF FINAL COMPROMISE SETTLEMENT AND RELEASE REGARDING THE WORKERS' COMPENSATION CLAIM OF HUBERT C. ROGERS

11. Consideration was given to a resolution authorizing the Interim City Manager to execute on behalf of the City of Asheville an agreement of final compromise settlement and release regarding the Workers' Compensation Claim of Hubert C. Rogers.

Mayor Bissette said on or about September 16, 1982, Hubert C. Rogers suffered an injury to his back by accident while working on a transmission on a fire truck. The transmission began to fall and upon catching it, Mr. Rogers suffered an injury to his low back. This resolution will authorize the Interim City Manager to execute an agreement of final compromise settlement and release for payment to the employee, Hubert C. Rogers. He said final settlement would be $8,550.00. This amount is budgeted for FY 1985-86 in the Fire Department Budget.

Mayor Bissette said members of Council were previously furnished copies of the resolution and it would not be read in its entirety unless there was a specific request to do so.

Upon motion of Councilman Price, seconded by Councilman Tisdale, Resolution No. 86-30 was unanimously adopted.

Complete text of Resolution No. 86-30 will be found in Resolution Book No. 15 at Page ~~445 and~~ 446 and 447.

APPROVAL OF SIGN PERMIT - 29 MONTFORD AVENUE

12. Consideration was given to a motion approving a sign permit for an identification sign at 29 Montford Avenue.

Mayor Bissette said Frank S. Smith has requested a sign permit to erect an identification sign at 29 Montford Avenue. This sign requires approval of City Council pursuant to the Zoning Ordinance in that the sign will be situated closer than 600' of a limited access highway.

Donna Cator, Chairperson for the Mayor's Employment of the Handicapped Committee, extended appreciation to members of Council for the adoption of this ordinance.

Mr. Lawrence spoke in support of the ordinance, stating that he felt this particular ordinance would correct defects in a State law for handicapped parking.

On a roll call vote of 6-0, Ordinance No. 1570 passed on third and final reading.

Complete text of Ordinance No. 1570 will be found in Ordinance Book No. 10 at Page 364, 365, and 366 and 367.

RESOLUTION NO. 86-28 - RESOLUTION APPROVING THE SALE AND CONVEYANCE OF CERTAIN ADDITIONAL REAL PROPERTIES LOCATED IN THE PACK PLAZA REDEVELOPMENT AREA BY THE HOUSING AUTHORITY OF THE CITY OF ASHEVILLE TO PACK PLAZA ASSOCIATES LIMITED PARTNERSHIP

9. Consideration was given to a resolution approving the sale and conveyance of certain additional real properties located in the Pack Plaza Redevelopment Area by the Housing Authority of the City of Asheville to Pack Plaza Associates Limited Partnership.

Mayor Bissette said the Housing Authority has acquired certain properties pursuant to the implementation of the Redevelopment Plan for the Pack Plaza Redevelopment Area. The Housing Authority held a public hearing on February 11, 1986, and made certain findings, all pursuant to Sections 2 and 4 of 1979 Session Laws Ch. 317, in order to convey certain parcels in the Pack Plaza Redevelopment Area to a prospective developer. This resolution will authorize the sale and conveyance of those properties of the Pack Plaza Redevelopment Area under the terms and conditions set forth in the resolution of the Housing Authority of the City of Asheville.

Verl Emrick, Director of Planning, said this would convey the final two parcels to the Pack Plaza Associates, Ltd. Partnership.

Mayor Bissette said copies of the resolution were previously furnished to members of Council and it would not be read in its entirety unless there was a specific request to do so.

Upon motion of Vice-Mayor Frank, seconded by Councilman Boland, Resolution No. 86-28 was unanimously adopted.

Complete text of Resolution No. 86-28 will be found in Resolution Book No. 15 at Page ~~443~~ 444.

RESOLUTION NO. 86-29 - RESOLUTION APPROVING CAPITAL IMPROVEMENTS AT THE ASHEVILLE REGIONAL AIRPORT

10. Consideration was given to a resolution approving capital improvements at the Asheville Regional Airport.

with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of the site plan to City Council subject to the following conditions: 1) approval of curb cut on Hendersonville Road from the North Carolina Department of Transportation; and 2) compliance with the Erosion Control Ordinance.

Upon motion of Vice-Mayor Frank, seconded by Councilman Michalove, the Consent Agenda was unanimously approved.

CLAIMS - MARGARET SILVERMAN (SEWER) - TERESA ISRAEL (FIRE) - HAROLD BLANKENSHIP (STREETS)

The Acting City Manager presented claims received from Margaret Silverman, Teresa Israel and Harold Blankenship.

Mayor Bissette referred the claims to the Corporation Counsel for investigation and recommendation.

RESOLUTION NO. 86-32 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH TRAFFIC SYSTEMS INTERNATIONAL LIMITED TO CONDUCT A PARKING FEASIBILITY STUDY FOR THE CENTRAL BUSINESS DISTRICT

14. Consideration was given to a resolution authorizing the City Manager to enter into an agreement with Traffic Systems International Limited to conduct a parking feasibility study for the Central Business District.

Winn Powell, with the Audit and Budget Department, said this resolution would authorize the City Manager to enter into an agreement for Traffic Systems International Limited to conduct a parking feasibility study for the Central Business District. He said the City needs a parking feasibility study to assist in planning for future development and growth in the downtown area. He said proposals were solicited for the study, and the firm of Traffic Systems International Limited submitted a proposal to conduct the study for a cost not to exceed $20,940.00. He said the City staff has reviewed the proposal and recommended the contract be awarded to Traffic Systems International Limited.

Upon motion of Vice-Mayor Frank, seconded by Councilman Michalove, Resolution No. 86-32 was unanimously adopted.

Complete text of Resolution No. 86-32 will be found in Resolution Book No. **15 at Page 449.** 451

ORDINANCE NO. 1573 - BUDGET ORDINANCE AMENDMENT TO PROVIDE FUNDING FOR THE RANKIN STREET PARKING GARAGE

15. Consideration was given to a budget ordinance amendment to provide funding in the amount of $400,000.00 for land acquisition for the Rankin Street Parking Garage.

The Acting City Manager said the sign had also been approved by the Historic Resources Commission.

Councilman Michalove moved to approve the sign permit for an identification sign at 29 Montford Avenue. This motion was seconded by Councilman Tisdale and carried unanimously.

APPROVAL OF CONSENT AGENDA

13. Consideration was given to a motion approving the Consent Agenda.

Mayor Bissette said the following items are of a routine nature and they have been previously reviewed by the members of the City Council. Therefore, by unanimous vote to approve these items, the City Council may, pursuant to the procedures established in Ordinance No. 1008, adopt all of the items with one motion without the full reading and/or separate motion adopting each individual item. Upon the request of a citizen, a member of the City Council, and/or a member of the City staff, any single item scheduled for approval on the consent agenda may be considered separately.

A. **Resolution No. 86-31**

Resolution of intent to close all of North Street, Short Pine Street, Higgins Place and an unnamed alley and portions of Mountain Street, Clemmons Street, Lincoln Street, Latta Street, and Sassafras Street and scheduling a public hearing for March 25, 1986.

HIGHLIGHTS: A petition has been filed by the Housing Authority requesting that the following streets and alley be permanently closed to public use: North Street, Short Pine Street, Higgins Place, Unnamed Alley, portion of Mountain Street, portion of Clemmons Street, portion of Lincoln Street, portion of Latta Street, and portions of Sassafras. Permanent closing of these streets and alley would not be detrimental to or contrary to the public interest or the property rights of any individual.

Resolution Book 15 - Page ~~447~~ 448 and ~~448~~ 449.

B. Motion to schedule a public hearing for a site plan of the proposed Forest Plaza (office Condominiums and retail complex) to be located at 932 Hendersonville Road for March 11, 1986.

HIGHLIGHTS: The Asheville Planning and Zoning Commission at a meeting held December 11, 1985, reviewed the site plan of the proposed Forest Plaza (office condominiums and retail complex) to be located at 932 Hendersonville Road. The site plan was prepared by John Reid, Architect, for Mr. George Morosani, Developer, and submitted in accordance

2. In 1979 this Council determined that the appropriate use for this property was R-1. Of course, the current project would not be appropriate under R-1.

3. It has been stated that the 1979 lawsuit settled the zoning question. That lawsuit provided that the property was "restored to the same zoning classification it had." In addition, the Superior Court made no effort to determine the appropriate use of this property, of the surrounding neighborhood, or of the City as a whole. That is the responsibility of this Council.

The City of Asheville has no authority to zone except for purposes outlined in North Carolina General Statutes 160A-381 and 160A-383. These sections require a comprehensive plan for districts which will, among other things, promote the health and general welfare of the community. On behalf of the Beverly Hills Homeowners, I urge this Council not to give final approval to a site plan for multi-story apartment buildings on this property without first exercising its responsibility to determine that such a use is consistent with a comprehensive plan promoting the purposes authorized by law.

This letter is to urge the Council as a whole, and each member individually, to institute a petition for rezoning in accordance with Section 30-11-1 of the Code of Ordinances of the City of Asheville. I believe an investigation will show that the character of this property has not changed since 1979 and is currently appropriate for R-1 zoning.

One reason the members of the Council are being urged to initiate such a petition is that Ordinance 30-11-1 as now written would not allow any of the surrounding land owners to file such a petition.

The City Council has in its file an opinion letter from the Institute of Government addressed to Verl Emrick stating that such a provision in the City Ordinance is unconstitutional. Based upon this, one of our members will be filing a petition to rezone, and I urge you to consider this petition on its merits. Again, I urge this Council to not grant final approval to a site plan prior to determining the appropriate zoning.

Sincerely yours,

Thomas R. Bell, Jr.

ph

cc: Mary Lloyd Frank
Wilhelmina B. Bratton
Walter R. Boland, Phd.
Kenneth M. Michalove
Norma T. Price
George M. Tisdale
Verl Emrick
William F. Slawter
William C. Moore

Bob Wurst, Director of Audit and Budget, said the funding for the land acquisition for the Rankin Street Parking Garage would come from general revenue sharing funds.

Councilman Price moved for the adoption of Ordinance No. 1573. The motion was seconded by Vice-Mayor Frank.

On a roll call vote of 6-0, Ordinance No. 1573 passed on first and final reading.

Complete text of Ordinance No. 1573 will be found in Ordinance Book No. 10 at Page ~~370~~ 371 now

RALPH BISHOP - LOTTERY SALES IN THE CITY OF ASHEVILLE

Ralph Bishop again spoke to members of Council relative to the lottery sales in the City of Asheville.

PRESENTATION OF CORRESPONDENCE RELATIVE TO THE CARMELITE PROPERTY

Thomas K. Bell, Jr., Attorney representing the Beverly Hill Homeowners Association, presented the following correspondence relative to the project proposed for the Carmelite property in Beverly Hills:

18 February, 1986

Asheville City Council
Post Office Box 7148
Asheville, North Carolina 28807

Re: Proposed construction on the Carmelite Monastery property

Dear Members of the Council:

This letter is to express my concern about the site plan for development on the Carmelite property which has been partially approved by you. As you know, I spoke before you on Tuesday, February 4. I appreciate your attention, and I will not repeat the points I raised at that time.

What does concern me, and what prompts this letter, is that the Council is on the verge of approving a site plan which includes a multi-story apartment complex, when this Council has never determined that this type construction would be appropriate for this property or for the surrounding neighborhood. This issue is completely different from the issue of what the current zoning for the property is and whether it is enforceable. The City Council has twice considered the appropriate use of this property consistent with the general welfare of the community:

1. In 1963 the Council found that this property was appropriate for a monastery and mausoleum and specifically found that should this change, the property would be appropriately developed according to the highest adjacent use. This ordinance expressed the Council's feeling at that time that the current project would not be appropriate for this property.

Tuesday - February 25, 1986 - 4:00 p.m.

Regular Meeting

Present: Mayor Louis Bissette, Presiding; Vice-Mayor Mary Lloyd Frank; Councilmen Norma T. Price, Wilhelmina B. Bratton, Walter R. Boland, Kenneth Michalove, and George M. Tisdale; Corporation Counsel William F. Slawter; Associate City Manager/City Clerk William F. Wolcott, Jr.; Deputy City Clerk Carol Hensley.

Absent: None

INVOCATION

The invocation was given by Councilman Michalove.

APPROVAL OF THE MINUTES - FEBRUARY 25, 1986 MEETING

1. Consideration was given to the approval of the minutes of the February 25, 1986 meeting.

Mayor Bissette announced the approval of the minutes as submitted.

PROCLAMATION - "CHILD PASSENGER SAFETY AWARENESS WEEK" - WEEK OF FEBRUARY 24

2. Mayor Bissette read a joint proclamation proclaiming the week of February 24, 1986 as "Child Passenger Safety Awareness Week".

Mayor Bissette said this is a joint proclamation by the City of Asheville, Town of Biltmore Forest, Black Mountain, Montreat, Weaverville, Woodfin, and Buncombe County.

Mayor Bissette recognized Mayor Michael Begley from the Town of Black Mountain; Mayor Reese Lasher, Town of Weaverville; and Mayor Kermit Penley, Town of Woodfin; who were in attendance at the meeting.

PROCLAMATION - FEBRUARY 28, MARCH 1, AND MARCH 2, 1986 AS "SOUTHERN CONFERENCE BASKETBALL TOURNAMENT WEEK"

2a. Mayor Bissette read a proclamation proclaiming February 28, March 1 and 2 as "Southern Conference Basketball Tournament Week".

Mayor Bissette presented the proclamation to Barrie Sneed, Chairman of the Southern Conference for the Junior League.

Barrie Sneed thanked members of Council for the proclamation, and for City Council's recent action in allowing free on-street metered parking during the conference tournament.

PROCLAMATION - MARCH, 1986 - "YOUTH ART MONTH"

3. Mayor Bissette read a proclamation proclaiming March, 1986 as "Youth Art Month".

Mayor Bissette presented the proclamation to Mary K. Israel, State Chairman for Youth Art Month.

ADJOURNMENT

Upon motion of Councilman Tisdale, seconded by Councilman Boland, the meeting adjourned to executive session to discuss real estate and personnel.

The meeting adjourned at 5:45 p.m.

MAYOR

CITY CLERK

Upon inquiry of Ralph Bishop, Mr. Emrick said the petition for rezoning was still valid.

Mayor Bissette closed the public hearing at 4:35 p.m.

Councilman Tisdale moved for the adoption of Ordinance No. 1574. This motion was seconded by Councilman Boland.

On a roll call vote of 7-0, Ordinance No. 1574 passed on first reading.

ORDINANCE NO. 1572 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE" AS AMENDED - PROPERTY LOCATED ON LEICESTER HIGHWAY (MR. WAYNE HAWKINS PETITION)

5. Consideration was given to the second reading of Ordinance No. 1572, an ordinance amending Ordinance No. 322, known as "an ordinance providing for the zoning of the City of Asheville" as amended, property located on Leicester Highway (Mr. Wayne Hawkins petition).

Mayor Bissette said the Planning and Zoning Commission at a meeting held January 8, 1986, considered the petition of Mr. Wayne Hawkins that portions of Lots 35 and 41, Sheet 36, Ward 12, and Lot 323, Sheet 20, Ward 6, be rezoned from R-3 Residential District to CS Commercial Service District. The property is located on the New Leicester Highway. After review and discussion, the Commission voted to recommend to City Council that Lot 323, Sheet 20, Ward 5, be rezoned from R-3 Residential District to CS Commercial Service District. Staff advised the Commission that Lots 35 and 41, Sheet 36, Ward 12 were already zoned Commercial Service in their entirety. This ordinance passed on first reading at the February 18, 1986 meeting.

Mayor Bissette said this ordinance was previously read on first reading and would not be reread in its entirety unless there was a specific request to do so.

On a roll call vote of 7-0, Ordinance No. 1572 passed on second reading.

BIDS - DIESEL ENGINE TRACTOR WITH SAFETY CAB

6. Consideration was given to a motion relative to bids received for a diesel engine tractor with safety cab.

Mayor Bissette said sealed bids were invited to furnish one (1) Diesel Engine Tractor and alternate bids for this unit with an optional safety cab for Parks, Recreation and Public Facilities use with their side arm mower. Requests for bids included that the tractor must be compatible, including mounting parts, to a Terrain King model "A" side arm mower. Three (3) bids were received; however, John Deere Company in Conyers, Georgia notified the Purchasing Division of an error in their bid and requested that their bid be withdrawn and bid security returned. This request was made within seventy-two hours after the bids were opened. It is recommended to award this contract to the lowest bidder meeting specifications, Farm Equipment Company of Asheville, Incorporated.

RECOGNITION OF NEW CITY MANAGER - DOUG BEAN

Mayor Bissette recognized Doug Bean, Asheville's new City Manager, effective April 1, 1986.

PUBLIC HEARING - REZONING PROPERTY ON HAYWOOD ROAD BEHIND ACE APPLIANCE ON KNIGHT PLACE

ORDINANCE NO. 1574 - AN ORDINANCE AMENDING ORDINANCE NO. 322 KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE" AS AMENDED - PROPERTY LOCATED ON KNIGHT PLACE

4. A public hearing was held relative to rezoning property on Haywood Road behind Ace Appliance on Knight Place.

Mayor Bissette said the Planning and Zoning Commission, at a meeting held July 10, 1985, considered the petition of Ace Appliance, that Ward 5, Sheet 6, Lot 99-½, be rezoned from R-3 Residential District to CS Commercial Service District. The property is located behind Ace Appliance on Knight Place. After review and discussion, the Commission voted to recommend to City Council that Ward 5, Sheet 6, Lot 99-½ and Lot 99 be rezoned from R-3 Residential District to CS Commercial Service District. At the Council meeting of August 13, 1985, the petitioner withdrew his request for rezoning. Ace Appliance now wishes for the requested rezoning to be heard by City Council.

Mayor Bissette opened the public hearing at 4:21 p.m.

The Deputy City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said the Planning and Zoning Commission had previously considered the rezoning of Lot 99-½ and Lot 99. He said the rezoning was requested to allow for expansion of Ace Appliance Company. He said negotiations for the sale of the property never took place, but since that time re-negotiations for the purchase of the property by Douglas Holcombe, from Ace Appliance Company, have taken place and Ace Appliance Company wishes to continue with the requested rezoning. He said since the property in question abuts residential property, a buffer would be required.

Upon inquiry of Vice-Mayor Frank, Mr. Emrick said there was no existing buffer on the property in question.

Upon inquiry of Councilman Tisdale, Mr. Emrick said notices were sent to all adjacent property owners relative to the rezoning, and four notices were returned. He said three were in favor and one from James D. Sparks, of 127 Pennsylvania Avenue, voiced objection to the rezoning of the property.

Councilman Price voiced concern relative to rezoning Lot 99 since the property owner has not petitioned for the property to be rezoned. However, she felt it would be best to rezone Lot 99 since there would be some protection by buffering.

Douglas Holcombe, with Ace Appliance Company, spoke in favor of the rezoning, stating that the adjacent property owners would be protected by buffering and fencing.

Disposal Parcel 3 is a commercial site located in the East End/Valley Street Community Improvement Program Area. The proposed development will consist of a 2,500 square foot building designed for use as a flower shop, adequate parking and appropriate landscaping.

Disposal Parcel 186 is located in the East Riverside Project Area. The proposed development will consist of a church building including sanctuary, office, kitchen and classroom space, adequate parking and appropriate landscaping.

Mayor Bissette said, during pre-Council meeting, Council members decided to delay consideration of the sale of Disposal Parcel 3 until next week.

Councilman Bratton moved to approve the sale of Disposal Parcel 186 as recommended by the Housing Authority. This motion was seconded by Councilman Boland and carried unanimously.

CLAIMS - HAROLD REDMOND (WATER/SEWER/STREETS/FIRE) - JOAN PRESSLEY (SEWER) - MRS. WALLACE TRAVIS (WATER) - RAYMOND ALLEN (STREETS) - ELLSWORTH MORMAN (WATER)

The Acting City Manager presented claims received from Harold Redmond, Joan Pressley, Mrs. Wallace Travis, Raymond Allen, and Ellsworth Morman.

Mayor Bissette referred the claims to the Corporation Counsel for investigation and recommendation.

COMMENTS BY GARY FIELDS - REGARDING PROPERTY LOCATED AT 76 LANVALE AVENUE

Mr. Gary Fields of 86 Lanvale Avenue read the following letter of invitation to members of Council relative to problems relating to the property at 76 Lanvale Avenue.

The Concerned Howeowners of Lanvale Avenue 252-4933

Bill Wolcott
Acting City Manager
City of Asheville

February 24, 1986

Ref/Property 76 Lanvale Avenue - problems

Mr. Wolcott,

The homeowners of Lanvale Avenue are in need of your help. An apartment in a house located at 76 Lanvale Avenue has been rented by its owner to a ring of known prostitutes which are, with their trade, terrorizing what was once a quiet and safe neighborhood.

Neighbors can no longer feel secure in their homes nor feel safe of their property. We can't allow our children to play unattended, or walk from neighbor to neighbor without adult protection. All of us have lost sleep while loud music, profane language, door slamming, drunk drivers and noise from truck loads of "clients" being shuttled to and from the house of prostitution shattered the early morning hours.

The Acting City Manager said the diesel engine tractor would be used by the Parks and Recreation Department for their right-of-way clearing operation.

The bid summary is as follows:

ITEM NO.	DESCRIPTION	BIDDER	PROPOSED PRODUCT	MODEL NO.	BID AMOUNT
1	Tractor Less Safety Cab	*John Deere Co. Atlanta, GA	John Deere	2550	$10,849.20
1-A	Tractor With Safety Cab	*John Deere Co.	John Deere	2550	$13,779.05
1	Tractor Less Safety Cab	Farm Eqmt. Co. Asheville, NC	Ford	5610 (LA414M)	$14,005.00
1-A	Tractor With Safety Cab	Farm Eqmt. Co. Asheville, NC	Ford	5610 (LA414M)	$16,400.00
1	Tractor Less Safety Cab	Arden Eqmt. Co. Arden, NC	Kubota	M6950F	$20,419.59
1-A	Tractor With Safety Cab	Arden Eqmt. Co. Arden, NC	Kubota & Sims	M6950F with cab	$24,924.59

*John Deere Company has requested to withdraw their bid due to an error made in bidding. Their bid did not include necessary mounting parts for the Terrain King Mower. This request was received within the 72 hours following the bid opening.

Vice-Mayor Frank moved to approve the bid and award the contract for the diesel engine tractor with safety cab to Farm Equipment Company in the amount of $16,400.00. This motion was seconded by Councilman Price and carried unanimously.

SALE OF DISPOSAL PARCELS 3 AND 186 IN THE EAST RIVERSIDE URBAN RENEWAL PROJECT IN THE EAST END/VALLEY STREET COMMUNITY IMPROVEMENT PROGRAM

7. Consideration was given to a motion approving the sale of disposal parcels 3 and 186 in the East Riverside Urban Renewal Project in the East End/Valley Street Community Improvement Program.

Mayor Bissette said the Housing Authority has tentatively accepted the following bids for certain disposal parcels in the East Riverside Urban Renewal Project and the East End/Valley Street Community Improvement Project.

PARCEL	REUSE	PRICE	BID	REDEVELOPER
3	Commercial	$15,250.00	$15,250.00	Floral Design Unlimited of Asheville, Inc.
186	Church	$56,500.00	$56,000.00	New Mt. Olive Missionary Baptist Church

ADJOURNMENT

Upon motion of Councilman Tisdale, seconded by Councilman Price, the meeting adjourned to Executive Session to discuss a real estate matter.

The meeting adjourned at 4:55 p.m.

Mayor

City Clerk

The house is without water, (the renters haul water in gallon jugs), the smell of human waste can be detected from the street, windows are missing or broken and, we are told, the furnace in the house does not work. The only furniture in the house is mats and mattresses. The yard is littered with beer bottles and cans which spill into the street.

Even though police have raided the house more than once, and response to complaints of loud noise, the problem remains.

Thus, the signed, Lanvale homeowners would like for you to meet with us on March 8, 1986, 2:00 pm at 86 Lanvale Avenue, to discuss the problem and construct a solution which is legal, fair and longlasting. Similar invitations will be addressed to the house's owner in Florida, caretaker in Asheville and mortgage holder in Atlanta as well as both Police Chief Fred Hensley and Sheriff Tom Morrissey.

Please help us to cleanup Lanvale. Prostitution is illegal whether on Ashland Avenue or Lanvale Avenue. We need your help, please come.

Mr. Fields said that he had talked with the Acting City Manager and the Chief of Police relative to the problems at 76 Lanvale Avenue. He said the Police Department had been very cooperative with the neighborhood in trying to deal with the problems.

Mayor Bissette said the Acting City Manager had brought this matter to Council's attention during their pre-Council meeting and Council has requested a report from the Chief of Police and the Director of Inspections relative to 76 Lanvale Avenue by Tuesday, March 4, 1986. He said the City of Asheville intends to enforce all State laws and City laws and would proceed with corrective actions at 76 Lanvale Avenue.

Upon inquiry of Councilman Price, Mr. Fields said the Litter Enforcement Control Officer had been contacted relative to litter problems around 76 Lanvale Avenue.

Councilman Bratton informed Mr. Fields that if small children were involved with the problems at 76 Lanvale Avenue she would suggest that the neighbors contact the Department of Social Services, Pat Webb, Supervisor in the Buncombe County Social Services Department.

Paul Hollar, of Lanvale Avenue, spoke relative to the problems at 76 Lanvale Avenue stating that this was a nice neighborhood and they would like to keep it that way.

RALPH BISHOP - LOTTERY SALES IN THE CITY OF ASHEVILLE - ASHEVILLE POLICE DEPARTMENT

Mr. Ralph Bishop again spoke to members of Council relative to lottery sales in the City of Asheville and the Asheville Police Department.

Mayor Bissette said this ordinance will amend the dog licensing tax ordinance to provide for civil penalties.

The Acting City Manager requested that action on this ordinance be postponed until March 11, 1986 due to several discrepancies that need to be cleared up.

It was the consensus of Council to postpone action on this ordinance until March 11, 1986.

ORDINANCE NO. 1574 - AN ORDINANCE AMENDING ORDINANCE NO. 322 KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE" AS AMENDED - PROPERTY LOCATED ON KNIGHT PLACE (ACE APPLICANCE PETITION)

4. Consideration was given to the second reading of Ordinance No. 1574, an ordinance amending Ordinance No. 322 known as "an ordinance providing for the zoning of the City of Asheville" as amended, property located on Knight Place (Ace Applicance petition).

Mayor Bissette said the Asheville Planning and Zoning Commission, at a meeting held July 10, 1985, considered the petition of Mr. Wayne Smith, of Ace Appliance, that Ward 5, Sheet 6, Lot 99-1/4, be rezoned from R-3 Residential District to CS Commercial Service District. The property is located behind Ace Appliance on Knight Place. After review and discussion, the Commission voted to recommend to City Council that Ward 5, Sheet 6, Lot 99-1/4 and Lot 99 be rezoned from R-3 Residential District to CS Commercial Service District. At the Council meeting of August 13, 1985, the petitioner withdrew his request for rezoning. Ace Appliance now wishes for the requested rezoning to be heard by City Council. This ordinance passed on first reading at the February 25, 1986 meeting.

Mayor Bissette said this ordinance was previously read on first and second reading and would not be reread in its entirety unless there was a specific request to do so.

A representative from Ace Appliance Company requested that Council consider the second and third readings of this Ordinance at today's meeting.

On a roll call vote of 7-0, Ordinance No. 1574 passed on second reading.

Councilman Michalove moved to suspend the rules and proceed to the third and final reading of Ordinance No. 1574. This motion was seconded by Councilman Bratton and carried on a voice vote of 6-1, with Councilman Price voting "no".

On a roll call vote of 7-0, Ordinance No. 1574 passed on third and final reading.

Complete text of Ordinance No. 1574 will be found in Ordinance Book No. 10 at page ~~371 and~~ 372 and 373

Tuesday - March 4, 1986 - 4:00 p.m.

Regular Meeting

Present: Mayor Louis Bissette, Jr., Presiding; Vice-Mayor Mary Lloyd Frank; Councilmen Wilhelmina Bratton, Norma T. Price, Walter R. Boland, Kenneth M. Michalove and George M. Tisdale ; Corporation Counsel William F. Slawter; Acting City Manager William F. Wolcott, Jr.; Deputy City Clerk Carol Hensley.

Absent: None

INVOCATION

The invocation was given by Mayor Bissette.

APPROVAL OF THE MINUTES - FEBRUARY 25, 1986 MEETING

1. Consideration was given to the approval of the minutes of the February 25, 1986 meeting.

Mayor Bissette announced the approval of the minutes as submitted.

PROCLAMATION - MARCH, 1986 - "DRUG AWARENESS MONTH"

2. Mayor Bissette read a proclamation proclaiming March, 1986 as "Drug Awareness Month".

PROCLAMATION - MARCH 3-9, 1986 - "VOLLEYBALL WEEK"

2a. Mayor Bissette read a proclamation proclaiming the week of March 3 to March 9 as "Volleyball Week".

Ray Kisiah, Director of Parks, Recreation, and Public Facilities Department, said the Asheville Volleyball Club and the Asheville Parks, Recreation, and Public Facilities Department is sponsoring the "Hi Neighbor" Volleyball Tournament in the City of Asheville on Saturday, March 8 at eleven locations with finals on Sunday, March 9 at U.N.C.-A., Justice Gymnasium. He said the tournament has grown into one of the largest volleyball tournaments in the country, second only to the National U.S.V.B.A. Championships, with 115 teams this year from 12 states and the District of Columbia.

Donny Luke, with the Asheville Volleyball Club, said this tournament would make Asheville the center for volleyball tournaments, and provides the best volleyball tournaments in the East Coast. He presented members of Council with a "Hi Neighbor" Volleyball T-shirt.

ORDINANCE NO. ____ - AN ORDINANCE AMENDING ORDINANCE NO. 1226 OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE

3. Consideration was given to an ordinance amending Ordinance No. 1226 of the Code of Ordinances of the City of Asheville.

Mayor Bissette said the Housing Authority has tentatively accepted the following bids for certain disposal parcels in the East End/Valley Street Community Improvement Project.

PARCEL	REUSE	PRICE	BID	REDEVELOPER
3	Commercial	$15,250.00	$15,250.00	Floral Design Unlimited of Asheville, Inc.

Disposal Parcel 3 is a commercial site located in the East End/Valley Street Community Improvement Program Area. The proposed development will consist of a 2,500 square foot building designed for use as a flower shop, adequate parking and appropriate landscaping.

Councilman Bratton moved to approve the sale of Disposal Parcel 3 as recommended by the Housing Authority. This motion was seconded by Councilman Price and carried unanimously.

ALLEN CENTER ACQUISITION AND REHABILITATION BY ROBERT W. MAYHEW

8. Councilman Tisdale requested that the Mayor write a letter to Robert W. Mayhew, on behalf of City Council, expressing Council's appreciation for his acquisition and renovation of the Allen Center on College Place.

RESOLUTION NO. 86-34 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT WITH THE ASHEVILLE AREA CHAMBER OF COMMERCE FOR SERVICES PROMOTING GENERAL INDUSTRIAL GROWTH AND GROWTH OF THE TRAVEL AND TOURISM INDUSTRY

9. Consideration was given to a resolution authorizing the Mayor to execute an agreement with the Asheville Area Chamber of Commerce for services promoting general industrial growth and growth of the travel and tourism industry.

Mayor Bissette said the Asheville Area Chamber of Commerce has presented an agreement to the City of Asheville to provide certain services during fiscal year '85-'86 to the City for public purposes. He said the City Council has appropriated non-tax funds in the amount of $37,542.00 for the services. He said this resolution would authorize the execution of said agreement.

Upon motion of Councilman Bratton, seconded by Councilman Michalove, Resolution No. 86-34 was unanimously adopted.

Complete text of Resolution No. 86-34 will be found in Resolution Book No. 15 at page ~~451~~ 452.

CLAIMS - PISGAH FISH CAMP (SEWER) - PATTY EARWOOD (WATER) - RUMORS BEAUTY SALON (SEWER)

10. The Acting City Manager presented claims received from Pisgah Fish Camp, Patty Earwood, and Rumors Beauty Salon.

Mayor Bissette referred the claims to the Corporation Counsel for investigation and recommendation.

ORDINANCE NO. 1572 - AN ORDINANCE AMENDING ORDINANCE NO. 322 KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED - PROPERTY LOCATED ON LEICESTER HIGHWAY (MR. WAYNE HAWKINS)

5. Consideration was given to the third reading of Ordinance No. 1572, "an ordinance providing for the zoning of the City of Asheville", as amended, property located on Leicester Highway (Mr. Wayne Hawkins).

Mayor Bissette said the Asheville Planning and Zoning Commission at a meeting held January 8, 1986, considered the petition of Mr. Wayne Hawkins that portions of Lots 35 and 41, Sheet 36, Ward 12, and Lot 323, Sheet 20, Ward 6, be rezoned from R-3 Residential District to CS Commercial Service District. The property is located on the New Leicester Highway. After review and discussion, the Commission voted to recommend to City Council that Lot 323, Sheet 20, Ward 5, be rezoned from R-3 Residential District to CS Commercial Service District. Staff advised the Commission that Lots 35 and 41, Sheet 36, Ward 12 were already zoned Commercial Service in their entirety. This ordinance passed on first reading at the February 18, 1986 meeting and on second reading on February 25, 1986.

Mayor Bissette said this ordinance was previously read on first and second reading and would not be reread in its entirety unless there was a specific request to do so.

On a roll call vote of 7-0, Ordinance No. 1572 passed on third and final reading.

Complete text of Ordinance No. 1572 will be found in Ordinance Book No. 10 at page ~~368 and~~ 369. and 370 mon

RESOLUTION NO. 86-33 - RESOLUTION OF INTENT TO CLOSE A PORTION OF AN UNNAMED ALLEY OFF PEARSON DRIVE AND SCHEDULING A PUBLIC HEARING FOR APRIL 8, 1986

6. Consideration was given to a resolution of intent to close a portion of an unnamed alley off Pearson Drive and scheduling a public hearing for April 8, 1986.

Mayor Bissette said a petition has been filed by Kathleen Garren and William Garren, owners of property adjoining a portion of an unnamed alley between Madison Street and Gray Street off Pearson Drive, asking that the portion of this alley adjoining Lots 54 and 59 of Ward 3, Sheet 9 of the Buncombe County Tax Maps be permanently closed to public use.

Upon motion of Councilman Tisdale, seconded by Vice-Mayor Frank, Resolution No. 86-33 was unanimously adopted.

Complete text of Resolution No. 86-33 will be found in Resolution Book No. 15 at page ~~450.~~ 451. mon

SALE OF DISPOSAL PARCEL 3 - EAST END/VALLEY STREET COMMUNITY IMPROVEMENT PROJECT

7. Consideration was given to a motion approving the sale of Disposal Parcel 3 in the East End/Valley Street Community Improvement Project.

Tuesday - March 11, 1985 - 4:00 p.m.

Regular Meeting

Present: Mayor Louis Bissette, Presiding; Vice-Mayor Mary Lloyd Frank; Councilmen Wilhelmina Bratton, Norma Price, Kenneth Michalove, and George Tisdale; Corporation Counsel William F. Slawter; Acting City Manager William F. Wolcott, Jr.; and Deputy City Clerk Carol Hensley.

Absent: Councilman Walter R. Boland

INVOCATION

The invocation was given by Councilman Tisdale.

APPROVAL OF THE MINUTES - MARCH 4, 1986 MEETING

1. Consideration was given to the approval of the minutes of the March 4, 1986 meeting.

Mayor Bissette announced the approval of the minutes as submitted.

PROCLAMATION - MARCH 10-15, 1986 - "EMPLOY THE OLDER WORKER WEEK"

2. Mayor Bissette read a proclamation proclaiming March 10-15, 1986, as "Employ the Older Worker Week".

Mayor Bissette presented the proclamation to Suzanne Piver, Placement Supervisor with the Employment Security Commission.

PUBLIC HEARING - SITE PLAN - FOREST PLAZA - 932 HENDERSONVILLE ROAD

3. A public hearing was held relative to a site plan of the proposed Forest Plaza (office condominiums and retail complex) to be located at 932 Hendersonville Road.

Mayor Bissette said the Asheville Planning and Zoning Commission at a meeting held December 11, 1985, reviewed the site plan of the proposed Forest Plaza (office condominiums and retail complex) to be located at 932 Hendersonville Road. The site plan was prepared by John Reid, Architect, for Mr. George Morosani, Developer, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of the site plan to City Council subject to the following conditions: 1) approval of curb cut on Hendersonville Road from the North Carolina Department of Transportation; and 2) compliance with the Erosion Control Ordinance.

Mayor Bissette opened the public hearing at 4:10 p.m.

The Deputy City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

REPORT RELATIVE TO PROPERTY AT 76 LANVALE AVENUE

11. The Acting City Manager said on February 25, 1986, that members of Council were presented a petition relative to the property at 76 Lanvale Avenue on February 25, 1986.

Major Breedlove, with the Asheville Police Department, said he felt the problems at 76 Lanvale Avenue had been settled. However, if drastic physical improvements are not made to the dwelling such a condition is very possible to result again.

Lem Moore, Director of Building Inspections, said steps had been taken last week, after the Police Department had visited the house, and the house had been vacated, for inspections to be made at 76 Lanvale Avenue. He said after inspections were made sufficient grounds were evident to condemn and post the dwelling as a health and safety hazard. He said he had talked to the owner of the dwelling, and had been assured that he would take immediate steps to correct the problems.

Gary Fields, of 86 Lanvale Avenue, thanked members of Council for their expendient action on their request.

RALPH BISHOP - ASHEVILLE POLICE DEPARTMENT - LOTTERY SALES

Ralph Bishop again spoke to members of Council relative to the Asheville Department and lottery sales in the City of Asheville.

ADJOURNMENT

Upon motion of Councilman Tisdale, seconded by Councilman Boland, the meeting adjourned at 4:35 p.m.

MAYOR

CITY CLERK

RESOLUTION NO. 86-36 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE ON BEHALF OF THE CITY AN AGREEMENT BY AND BETWEEN THE CITY OF ASHEVILLE AND MOSER, INC., FOR INSTALLING DRY STANDPIPES IN THE CIVIC CENTER PARKING GARAGE ON RANKIN AVENUE

5. Consideration was given to a resolution authorizing the Mayor to execute on behalf of the City an agreement by and between the City of Asheville and Moser, Inc., for installing dry standpipes in the Civic Center Parking Garage on Rankin Avenue.

Mayor Bissette said State fire codes require the installation of "standpipes" in the Civic Center Parking Garage located on Rankin Avenue. The plans and specifications have been prepared and proposals for the work have been received. It is recommended by City staff that the contract be awarded to the lowest responsible bidder, Moser, Incorporated. He said the total cost would be $14,755.00 which is currently budgeted. He said this would bring the Civic Center Parking Garage into compliance with the State Fire Code requirements.

Mayor Bissette said members of Council were previously furnished copies of the resolution and it would not be read in its entirety unless there was a specific request to do so.

Upon motion of Councilman Michalove, seconded by Vice-Mayor Frank, Resolution No. 86-36 was unanimously adopted.

Complete text of Resolution No. 86-36 will be found in Resolution Book No. 15 at Page 434. 435

RESOLUTION NO. 86-37 - RESOLUTION AUTHORIZING THE TEMPORARY CLOSING OF MARKET STREET TO VEHICULAR TRAFFIC FOR ST. PATRICK'S DAY EVENT ON MARCH 16, 1986

6. Consideration was given to a resolution authorizing the temporary closing of Market Street to vehicular traffic for St. Patrick's Day event on March 16, 1986.

Mayor Bissette said Cin-Jades, a downtown business, is planning a parade, cookout and small festival on March 16, 1986, to commemorate St. Patrick's Day. This resolution will authorize the section of Market Street from the intersection at College Street to the intersection at Walnut Street to be temporarily closed to vehicular traffic from 6:00 a.m. until 6:00 p.m. on March 16, 1986.

Mayor Bissette said members of Council were previously furnished copies of the resolution and it would not be read in its entirety unless there was a specific request to do so.

Upon motion of Councilman Tisdale, seconded by Councilman Price, Resolution No. 86-37 was unanimously adopted.

Complete text of Resolution No. 86-37 will be found in Resolution Book No. 15 at Page 453. 456

Verl Barick, Director of Planning, said the Planning and Zoning Commission had recommended approval of the site plan subject to approval of curb cut on Hendersonville Road from the North Carolina Department of Transportation and compliance with the Erosion Control Ordinance. He said Mr. Morosani, Developer, had received a letter from the North Carolina Department of Transportation, dated February 15, 1986, approving the driveway permits. He said the project would entail office condominiums and a retail complex with a proposed parking deck.

John Reid, Architect for the project, said the retail activity in the complex would be similar to businesses already operating along Hendersonville Road. He said buffering would be provided along Seminole Street.

Upon inquiry of Councilman Michalove, Mr. Reid said they were aware of the scheduled widening of Hendersonville Road by the North Carolina Department of Transportation, and it is their understanding that the City would not be requested to acquire the right-of-way for the widening.

Mayor Bissette closed the public hearing at 4:19 p.m.

Councilman Tisdale moved for the approval of the site plan of the proposed Forest Plaza to be located at 932 Hendersonville Road. This motion was seconded by Councilman Price.

Councilman Michalove asked if Councilman Tisdale's motion included the conditions outlined by the Planning and Zoning Commission and his request that the right-of-way currently set aside for the Hendersonville Road widening would be at no cost to the City of Asheville. Councilman Tisdale answered in the affirmative. The motion carried unanimously.

RESOLUTION NO. 86-35 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE ON BEHALF OF THE CITY OF ASHEVILLE AMENDMENT NO. 1 TO FEDERAL AVIATION GRANT AGREEMENT, PROJECT NO. 3-37-0005-02.

4. Consideration was given to a resolution authorizing the Mayor to execute on behalf of the City of Asheville Amendment No. 1 to Federal Aviation Grant Agreement, Project No. 3-37-0005-02.

Mayor Bissette said this amendment would increase the maximum grant obligation by $3,605 to cover cost overruns in the construction of a vehicle storage building.

Mayor Bissette said members of Council were previously furnished copies of the resolution and it would not be read in its entirety unless there was a specific request to do so.

Upon motion of Vice-Mayor Frank, seconded by Councilman Bratton, Resolution No. 86-35 was unanimously adopted.

Complete text of Resolution No. 86-35 will be found in Resolution Book No. 15 at Page ~~452~~ 453 and ~~453~~ 454. mom

Mayor Bissette said this resolution will reappoint Wanda Henry Coleman, Michael D. Moser, and Jan Wiegman as members of the Planning and Zoning Commission for two (2) year terms.

Councilman Michalove stated that he would be voting "no" on the resolution. He said at a number of the Alternatives for Asheville meetings, several requests were made that City Council look into the composition of the Planning and Zoning Commission and appoint members from neighborhood organizations. He said it would be his preference to wait until August, 1986, when all the terms would have expired, and take a look at the entire Board as far as representation is concerned.

Upon motion of Councilman Tisdale, seconded by Vice-Mayor Frank, Resolution No. 86-39 passed on a voice vote of 5-1 with Councilman Michalove voting "no".

Mayor Bissette said members of Council were previously furnished copies of the resolution and it would not be read in its entirety unless there was a specific request to do so.

Councilman Bratton said she had been appointed as a liaison between Asheville City Council and the Planning and Zoning Commission, and she would be attending the Planning and Zoning Commission meetings, and would look at their operating procedures and report back to members of Council. She requested that Mayor Bissette write a letter to the Chairman of the Planning and Zoning Commission informing them of her appointment as a liaison to the Commission.

Complete text of Resolution No. 86-39 will be found in Resolution Book No. 15 at Page ~~457~~ 438.

RESOLUTION NO. 86-40 - RESOLUTION APPOINTING MEMBER TO THE WESTERN NORTH CAROLINA AIR POLLUTION BOARD (FRANKLIN R. SCHUTZ)

10. Consideration was given to a resolution appointing Franklin R. Schutz as a member of the Western North Carolina Air Pollution Board.

Mayor Bissette said this resolution will appoint Mr. Schutz for a six (6) year term. He said Mr. Schutz would be filling the expiring term of Dr. Roy Roberts who has rendered a valuable service for over sixteen years.

Upon motion of Vice-Mayor Frank, seconded by Councilman Tisdale, Resolution No. 86-40 was unanimously adopted.

Complete text of Resolution No. 86-40 will be found in Resolution Book No. 15 at Page ~~458~~. 459

RESOLUTION NO. 86-41 - RESOLUTION REAPPOINTING MEMBER TO THE ASHEVILLE TRANSIT AUTHORITY (JOHN J. SHERMAN, JR.)

11. Consideration was given to a resolution reappointing John J. Sherman, Jr. to the Asheville Transit Authority.

RESOLUTION NO. 86-38 - RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACTURAL AGREEMENT WITH PULITZER BROADCASTING COMPANY TO LEASE SPACE FROM THE CITY OF ASHEVILLE AT THE CITY'S WHITE FAWN RADIO TOWER FOR THE PURPOSE OF RECEIVING AND TRANSMITTING TELEVISION SIGNALS IN AND AROUND THE ASHEVILLE-BUNCOMBE COUNTY AREA

7. Consideration was given to a resolution authorizing the Mayor to enter into a contractural agreement with Pulitzer Broadcasting Company to lease space from the City of Asheville at the City's White Fawn radio tower for the purpose of receiving and transmitting television signals in and around the Asheville-Buncombe County area.

Mayor Bissette said Pulitzer Broadcasting Company, doing business as WYFF-TV, is desirous of leasing space from the City at its White Fawn site for the purpose of transmitting television signals in and around the Asheville-Buncombe County area. The City and Pulitzer Broadcasting Company have mutually agreed to the terms for such a lease. This resolution will authorize the Mayor to sign an agreement with Pulitzer Broadcasting Company for said purpose. He said the rent will be $2,400 annually with a $600 advance deposit payable upon execution of this agreement. Electrical service to WYFF-TV from the City's meter will be approximately $60 per month.

Mayor Bissette said members of Council were previously furnished copies of the resolution and it would not be read in its entirety unless there was a specific request to do so.

Upon motion of Vice-Mayor Frank, seconded by Councilman Bratton, Resolution No. 86-38 was unanimously adopted.

Complete text of Resolution No. 86-38 will be found in Resolution Book No. 15 at Page ~~456~~ 457 mon

ASHEVILLE HOUSING AUTHORITY - PRESENTATION OF CHECK FOR PAYMENT IN LIEU OF TAXES

8. Jesse Ray, Sr., Chairman of the Asheville Housing Authority, presented Mayor Bissette with a check from the Asheville Housing Authority, pursuant to an agreement made in 1949 that the Housing Authority present a payment to the City of Asheville as a "payment in lieu of taxes". The check was in the amount of $33,023.35. Mr. Ray said this makes a total of $578,469.17 that has been paid to the City of Asheville in lieu of taxes.

Councilman Michalove said he felt this was a good example of what a non-profit organization can do for the City of Asheville for city services they receive. He said the City has a high number of non-profit organizations such as churches, etc., that could make a payment in lieu of taxes.

RESOLUTION NO. 86-39 - RESOLUTION APPOINTING MEMBERS TO THE PLANNING AND ZONING COMMISSION (WANDA HENRY COLEMEN, MICHAEL D. MOSER, AND JAN WIEGMAN)

9. Consideration was given to a resolution appointing Wanda Henry Colemen, Michael D. Moser, and Jan Wiegman as members of the Planning and Zoning Commission.

Upon motion of Vice-Mayor Frank, seconded by Councilman Tisdale, Resolution No. 86-42 was unanimously adopted.

Complete text of Resolution No. 86-42 will be found in Resolution Book No. 15 at Page 460. 461.

CLAIMS - ELIZABETH BUDZINSKI (WATER) - ROLAND BUNDROCK (STREETS)

The Acting City Manager presented claims received from Elizabeth Budzinski (Water) and Roland Bundrock (Streets).

Mayor Bissette referred the claims to the Corporation Counsel for investigation and recommendation.

COUNCILMAN BRATTON - REQUEST TO SCHEDULE MEETING WITH REPRESENTATIVES OF THE ASHEVILLE SCHOOL BOARD

Councilman Bratton requested that members of Council schedule a meeting with representatives of the Asheville School Board.

LETTER OF APPRECIATION TO WILLIAM B. CECIL - PURCHASE OF AKZONA BUILDING

Councilman Tisdale requested that Mayor Bissette write a letter to William B. Cecil with the Biltmore Company commending him on his purchase of the Akzona Building and locating his headquarters in downtown.

FLOYD BROCK PRESENTATION RELATIVE TO HUNTLEY CONSTRUCTION COMPANY BID FOR HAW CREEK SEWER PROJECT

Floyd Brock, Attorney representing Huntley Construction Company, said in the fall of 1985, Huntley Construction Company submitted a bid relative to the Haw Creek Sewer Project. He said Mr. Harvey Huntley had presented the bid on Tuesday and was notified on Friday that he was low bidder. He said over the weekend, Mr. Huntley had checked his estimates and found a substantial error. He said on the following Monday he notified the Director of Water and Sewer Services of his error and asked to be excused from the bid. He said, at that time, Mr. Huntley would have rather forfeited his bid bond rather than complete the job at the bid submitted. He said it is his opinion that North Carolina General Statutes 143-129 would allow a bidder to withdraw his bid within seventy-two (72) hours after notification that he was low bidder without forfeiture of bid bond. He said Mr. Huntley is requesting that Council waive his forfeiture of bid bond in the amount of $6,000.00. He requested that Council carefully review Mr. Huntley's request.

Harold Huff, Director of Water and Sewer Services, reviewed the events that lead up to Mr. Huntley's request. He said the Water and Sewer Staff did not recommend the forfeiture of bid bond, however, the Council considered the matter in detail and the-then-Council decided to ask for the forfeiture of bond.

Mayor Bissette informed Mr. Brock that Council would discuss the request with the Legal Department, and would let him know the decision reached by members of Council.

Mayor Bissette this resolution will reappoint John J. Sherman, Jr. as a member of the Asheville Transit Authority to serve a four (4) year term.

Mayor Bissette said members of Council were previously furnished copies of the resolution and it would not be read in its entirety unless there was a specific request to do so.

Upon motion of Vice-Mayor Frank, seconded by Councilman Michalove, Resolution No. 86-41 was unanimously adopted.

Complete text of Resolution No. 86-41 will be found in Resolution Book No. 15 at Page ~~459~~. 460

SCHEDULING PUBLIC HEARING RELATIVE TO EXTENDING HAW CREEK MORATORIUM

12. Councilman Tisdale moved to schedule a public hearing relative to extending the current moratorium in the Haw Creek area for March 25, 1986. This motion was seconded by Councilman Price and carried unanimously.

SCHEDULING PUBLIC HEARING RELATIVE TO HAYWOOD PARK HOTEL PROJECT PHASE II

13. Councilman Tisdale moved to schedule a public hearing relative to the site plan for the Haywood Park Hotel Project Phase II, for March 25, 1986. This motion was seconded by Councilman Price and carried unanimously.

RECOGNITION OF PLANNING STAFF RELATIVE TO ALTERNATIVES FOR ASHEVILLE'S METRICS

14. Councilman Price commended the Planning Staff on an outstanding job during the recent public hearings and continuing efforts for Alternatives for Asheville.

RESOLUTION NO. 86-42 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT FOR ENTRY WITH THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION

15. Consideration was given to a resolution authorizing the Mayor to execute an agreement for entry with the North Carolina Department of Transportation.

Mayor Bissette said the North Carolina Department of Transportation has developed plans to improve McDowell Street and in order to install proper drainage for the project, the North Carolina Department of Transportation requires an easement across property owned by the City of Asheville on Choctaw Street. He said there is not sufficient time to allow the final easement agreement between the City of Asheville and the North Carolina Department of Transportation to be approved prior to placing the project on the North Carolina Department of Transportation bid list. He said the execution of an agreement for entry will be sufficient to allow the project to be placed on the bid list. He said prior to the project being completed, the North Carolina Department of Transportation will prepare the easement agreements required to officially record the easement required for placement of the drainage system. He said this resolution will authorize the Mayor to execute said agreement for entry.

Tuesday - March 18, 1986 - 4:00 p.m.

Regular Meeting

Present: Mayor Louis Bissette, Presiding Vice-Mayor Mary Lloyd Frank; Councilmen Wilhelmina Bratton, Norma Price, Kenneth Michalove, Walter R. Boland and George Tisdale; Corporation Counsel William Slawter; Acting City Manager William F. Wolcott, Jr.; and Deputy City Clerk Carol Hensley.

Absent: None

INVOCATION

The invocation was given by Councilman Walter Boland.

APPROVAL OF THE MINUTES - MARCH 11, 1986 MEETING

1. Consideration was given to the approval of the minutes of the March 11, 1986, meeting.

Mayor Bissette announced the approval of the minutes as submitted with the correction of one typographical error.

RESOLUTION NO. 86-43 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A MUNICIPAL AGREEMENT WITH THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION FOR PROJECT 9.5130201 (U-503) AND 8.1840901 KNOWN AS CONSTRUCTION AND IMPROVEMENT OF U.S. 25 (MCDOWELL STREET) FROM NEAR VICTORIA ROAD TO SOUTHSIDE AVENUE INTERSECTION

2. Consideration was given to a resolution authorizing the Mayor to execute a municipal agreement with the North Carolina Department of Transportation for Project 9.5130201 (U-503) and 8.1840901 known as construction and improvement of U.S. 25 (McDowell Street) from near Victoria Road to Southside Avenue intersection.

Mayor Bissette said the City of Asheville and the North Carolina Department of Transportation have previously entered into Municipal Agreements dated October 22, 1981, and October 4, 1985, with regard to construction and improvement of U.S. 25 (McDowell Street). The N.C. Department of Transportation has adopted new plans regarding said improvements. It is necessary for the City of Asheville and NCDOT to enter into a new agreement for the above-captioned project which will supersede and rescind the previous Municipal Agreements. This resolution will authorize the Mayor to execute the Municipal Agreement with the North Carolina Department of Transportation.

Mayor Bissette said members of Council were previously furnished copies of the resolution, and it would not be read in its entirety unless there was a specific request to do so.

RALPH BISHOP - ASHEVILLE POLICE DEPARTMENT AND LOTTERY SALES

Ralph Bishop again spoke to members of Council relative to the Asheville Police Department and lottery sales in the City of Asheville.

ADJOURNMENT

Upon motion of Council Tisdale, seconded by Vice-Mayor Frank, the meeting adjourned at 4:55 p.m.

MAYOR

CITY CLERK

Upon motion of Councilman Boland, seconded by Councilman Michalove, Resolution No. 86-45 was unanimously adopted.

Complete text of Resolution No. 86-45 will be found in Resolution Book No. 15 at page ~~464~~ 465.

RESOLUTION NO. 86-46 - RESOLUTION REAPPOINTING MEMBERS TO THE BOARD OF ELECTRICAL EXAMINERS (E. FRANK DAVIS, JR., LARRY KEENAN, WALTER J. HARLOW, J. MICHAEL BOOZER, MALACHIE CROMARTIE)

5. Consideration was given to a resolution reappointing members to the Board of Electrical Examiners.

Mayor Bissette said this resolution will reappoint E. Frank Davis, Jr., Larry Keenan, Walter J. Harlow, J. Michael Boozer and Malachie Cromartie to the Board of Electrical Examiners for a two (2) year term.

Mayor Bissette said members of Council were previously furnished copies of the resolution and it would not be read in its entirety unless there was a specific request to do so.

Upon motion of Vice-Mayor Frank , seconded by Councilman Price, Resolution No. 86-46 was unanimously adopted.

Complete text of Resolution No. 86-46 will be found in Resolution Book No. 15 at page ~~465~~ 466.

RESOLUTION NO. 86-47 - RESOLUTION REAPPOINTING MEMBERS TO THE BOARD OF EXAMINERS OF MOTION PICTURE OPERATORS (ROY B. GIBBS AND L. B. SIMMONS)

6. Consideration was given to a resolution reappointing members to the Motion Picture Operators, Board of Examiners.

Mayor Bissette said this resolution will reappoint Roy B. Gibbs and L. B. Simmons to the Motion Picture Operators, Board of Examiners for a two (2) year term.

Mayor Bissette said members of Council were previously furnished copies of the resolution and it would not be read in its entirety unless there was a specific request to do so.

Upon motion of Councilman Tisdale, seconded by Councilman Price, Resolution No. 86-47 was unanimously adopted.

Complete text of Resolution No. 86-47 will be found in Resolution Book No. 15 at page 466.

RESOLUTION NO. 86-48 - RESOLUTION REAPPOINTING MEMBER TO THE BOARD OF TRUSTEES OF THE FIREMEN'S RELIEF FUND (T. CECIL TALLENT)

7. Consideration was given to a resolution reappointing a member to the Firemen's Relief Fund, Board of Trustees.

Mayor Bissette said this resolution will reappoint T. Cecil Tallent to the Firemen's Relief Fund, Board of Trustees for a two (2) year term.

Upon motion of Councilman Michalove, seconded by Vice-Mayor Frank, Resolution No. 86-43 was unanimously adopted.

Complete text of Resolution No. 86-43 will be found in Resolution Book No. 15 at page ~~461~~ 462 and ~~462~~ 463. mom

RESOLUTION NO. 86-44 - RESOLUTION APPROVING AN AMENDMENT TO THE ASHEVILLE-BUNCOMBE WATER AUTHORITY BY-LAWS

3. Consideration was given to a resolution approving an amendment to the Asheville-Buncombe Water Authority By-laws.

Mayor Bissette said the City-County Water Agreement, dated October 29, 1981, provides that the Authority may amend its By-laws upon the affirmative vote of two of the three governmental bodies: the Asheville-Buncombe Water Authority, the Asheville City Council, and the Buncombe County Board of Commissioners. The Authority desires to amend its By-laws so as to permit a new Authority member appointed to replace a resigning Authority member to vote within the thirty (30) day period after the resigning Authority member has submitted a written resignation. The Water Authority adopted a resolution on February 18, 1986, approving said amendment. This resolution will approve said amendment to the By-laws of the Water Authority.

Mayor Bissette said members of Council were previously furnished copies of the resolution and it would not be read in its entirety unless there was a specific request to do so.

Upon motion of Councilman Tisdale, seconded by Councilman Price, Resolution No. 86-44 was unanimously adopted.

Complete text of Resolution No. 86-44 will be found in Resolution Book No. 15 at page ~~463~~. 464. mom

RESOLUTION NO. 86-45 - RESOLUTION DIRECTING THE CITY CLERK TO INVESTIGATE A PETITION REQUESTING ANNEXATION OF A NON-CONTIGUOUS AREA RECEIVED UNDER NORTH CAROLINA GENERAL STATUTE SEC. 160A-58.1

4. Consideration was given to a resolution directing the City Clerk to investigate a petition requesting annexation of a non-contiguous area received under North Carolina General Statute Sec. 160A-58.1.

Mayor Bissette said a petition requesting annexation of an area near the intersection of Long Shoals Road and Ledbetter Road and more particularly described in said petition was received on March 21, 1985, by the Asheville City Council. N.C. Gen. Stat. Sec. 160A-58.1 provides that the sufficiency of the petition shall be investigated by the City Clerk before further annexation proceedings may take place. This resolution will direct the City Clerk to investigate the sufficiency of the petition and to certify to Council the result of his investigation.

Mayor Bissette said members of Council were previously furnished copies of the resolution and it would not be read in its entirety unless there was a specific request to do so.

LAWSUITS - JERRY N. JONES VS. CITY OF ASHEVILLE, BOARD OF ADJUSTMENT

The Acting City Manager said the City was served on March 11, 1986, with a law suit in which the City of Asheville is a defendant involving Jerry N. Jones vs. City of Asheville, Board of Adjustments, (appeals from Board of Adjustment decision).

Mayor Bissette referred the lawsuit to the Corporation Counsel for investigation and recommendation.

CANCELLATION OF REGULARLY SCHEDULED COUNCIL MEETING FOR APRIL 1, 1986

Councilman Price moved to cancel the regularly scheduled Council meeting for April 1, 1986, due to Easter holidays. This motion was seconded by Vice-Mayor Frank and carried unanimously.

RALPH BISHOP - ASHEVILLE POLICE DEPARTMENT

Ralph Bishop again spoke to members of Council relative to incidents at the Asheville Police Department and lottery sales in the City of Asheville.

COMMENTS BY BARRY OLIN, WALL STREET MERCHANT

Barry Olin, Wall Street merchant, said he was appearing before Council to apologize for the aggressive attitude and conduct of several of the tenants on Wall Street relative to action taken on eviction notices by the developer of the Wall Street Redevelopment Plan. He said he felt guidelines should be set up for situations of this nature. He said the tenants on Wall Street look forward to working with the developer, the new City Manager, and the new Downtown Coordinator.

ADJOURNMENT

Upon motion of Vice-Mayor Frank, seconded by Councilman Price, the meeting adjourned at 4:25 p.m.

MAYOR

CITY CLERK

Mayor Bissette said members of Council were previously furnished copies of the resolution and it would not be read in its entirety unless there was a specific request to do so.

Upon motion of Vice-Mayor Frank, seconded by Councilman Boland, Resolution No. 86-48 was unanimously adopted.

Complete text of Resolution No. 86-48 will be found in Resolution Book No. 15 at page ~~467.~~ 468.

SCHEDULING PUBLIC HEARING - SITE PLAN OF HAZELWOOD MOBILE HOME PARK, PHASE II - NORTH LOUISIANA AVENUE

8. Consideration was given to a motion to schedule a public hearing for a site plan of the Hazelwood (Weiss) Mobile Home Park, Phase II, to be located on North Louisiana Avenue for April 8, 1986.

Mayor Bissette said the Asheville Planning and Zoning Commission, at a meeting held February 26, 1986, reviewed the site plan of the Hazelwood (Weiss) Mobile Home Park, Phase II, to be loacted on North Louisiana Avenue. The site plan was prepared by Associated Land Technologies, Engineer, for Walter Weiss, Developer, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of the site plan to City Council subject to: 1) location of a fire hydrant within the site; 2) removal of four sites on the front of project to meet density requirement and provide open space; and 3) compliance with the Erosion Control Ordinance.

Councilman Tisdale moved to schedule a public hearing relative to the site plan of the Hazelwood Mobile Home Park, Phase II, to be located on North Louisiana Avenue for April 8, 1986. This motion was seconded by Councilman Price and carried unanimously.

REQUEST OF COUNCILMAN TISDALE - MAYOR TO WRITE LETTER TO WILL CURTIS OF THE ASHEVILLE CITIZEN RELATIVE TO EDITORIAL REGARDING BOARD AND COMMISSIONS - CONFLICT OF INTEREST

Councilman Tisdale requested that Mayor Bissette write a letter, on behalf of the Asheville City Council, expressing appreciation for his editorial in the Asheville Citizen on Monday, March 17, 1986, relative to steps taken to eliminate possible conflict of interest situations on various boards and commissions appointed by Asheville City Council.

CLAIMS - ALAN COOPER (WATER) - BETTY DILLINGHAM (STREETS) - BETTY DILLINGHAM (STREETS)

The Acting City Manager presented claims received from Alan Cooper and Betty Dillingham.

Mayor Bissette referred the claims to the Corporation Counsel for investigation and recommendation.

Complete text of Resolution No. 86-49 will be found in Resolution Book No. 15 at page ~~468.~~ 469. mor

PUBLIC HEARING - CLOSING ALL OF NORTH STREET, SHORT PINE STREET, HIGGINS PLACE AND AN UNNAMED ALLEY AND PORTIONS OF MOUNTAIN STREET, CLEMMONS STREET, LINCOLN STREET, LATTA STREET, AND SASSAFRAS STREET

RESOLUTION NO. 86-50 - RESOLUTION TO CLOSE ALL OF NORTH STREET, SHORT PINE STREET, HIGGINS PLACE AND AN UNNAMED ALLEY AND PORTIONS OF MOUNTAIN STREET, CLEMMONS STREET, LINCOLN STREET, LATTA STREET, AND SASSAFRAS STREET IN THE CITY OF ASHEVILLE, NORTH CAROLINA

3. A public hearing was held relative to closing all of North Street, Short Pine Street, Higgins Place and an unnamed alley and portions of Mountain Street, Clemmons Street, Lincoln Street, Latta Street and Sassafras Street.

Mayor Bissette said a request has been filed by the Housing Authority of the City of Asheville asking that all of North Street, Short Pine Street, Higgins Place and an unnamed alley and portions of Mountain Street, Clemmons Street, Lincoln Street, Latta Street and Sassafras Street be closed to public use. He stated that the permanent closing of these streets and alley would not be detrimental to or contrary to the public interest or the property rights of any individual.

Mayor Bissette opened the public hearing at 4:24 p.m.

The Interim City Manager presented the notice to the public and the affidavit of publication.

Mrs. Alice Mitchem, resident on Sassafras Street, said that if the top portion of Sassafras Street was closed she would have no access to her home. Mayor Bissette responded that during the Pre-Council Work Session this was taken into consideration and Mr. Holt assured them that he is not asking for that portion of Sassafras Street in front of her home be closed.

Mayor Bissette closed the public hearing at 4:29 p.m.

Mayor Bissette said copies of the resolution had previously been distributed to members of City Council, and the resolution would not be read unless there was a specific request to do so.

Upon motion of Vice-Mayor Frank, seconded by Councilman Tisdale, Resolution No. 86-50 was unanimously adopted.

Complete text of Resolution No. 86-50 will be found in Resolution Book No. 15 at page ~~469.~~ 470 + 471. mor

PUBLIC HEARING - SITE PLAN OF THE HAYWOOD PARK PROMENADE (STARNES AND HAYWOOD BUILDING), PHASE II OF THE HAYWOOD PARK HOTEL PROJECT

4. A public hearing was held relative to the site plan of the Haywood Park Promenade (Starnes and Haywood Building), Phase II of the

Tuesday, March 25, 1986 - 4:00 p.m.

Regular Meeting

Present: Mayor Louis Bissette, Presiding; Vice-Mayor Mary Lloyd Frank; Councilmen Wilhelmina Bratton, Norma Price, Kenneth Michalove, Walter R. Boland and George Tisdale; Corporation Counsel William F. Slawter; and Interim City Manager William F. Wolcott, Jr.

Absent: None

Invocation

The invocation was given by Councilman Norma Price.

Approval of the Minutes - March 18, 1986, Meeting

1. Consideration was given to the approval of the minutes of the March 18, 1986, meeting.

Mayor Bissette announced the approval of the minutes as submitted.

Announcement

Mayor Bissette said that on behalf of the City Council and staff he wished Mr. Frank Mulvaney a happy birthday. Mr. Mulvaney served on the City Council for 24 years from 1945 - 1969 and has now reached his 92nd birthday.

RESOLUTION NO. 86-49 - RESOLUTION COMMENDING ASHEVILLE HIGH SCHOOL FOR ITS PARTICIPATION IN THE INTERNATIONAL EXCHANGE PROGRAM AND RECOGNIZING THE FOREIGN EXCHANGE STUDENTS AND TEACHER FROM JAPAN AND FRANCE THAT ARE PARTICIPATING IN THE PROGRAM

2. Consideration was given to a resolution commending Asheville High School for its participation in the International Exchange Program and recognizing the foreign exchange students and teacher from Japan and France that are participating in the program.

Mayor Bissette recognized Mr. Larry Liggett, from Asheville High School, who explained that the Council of International Education Exchange and National Association of Secondary School Principals are sponsoring a student exchange program. Asheville High School is hosting foreign exchange students from Kofu, Japan, and also an American Field Service exchange student from France.

Mayor Bissette read the resolution.

Upon motion of Councilman Bratton, seconded by Vice-Mayor Frank, Resolution No. 86-49 was unanimously adopted.

Mayor Bissette presented each student and teacher with a welcome letter and a copy of the resolution adopted by Council.

The Interim City Manager presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Mr. Verl Emrick, Director of Planning, said that Mr. Harold Huff, Director of Water and Sewer Services, said that the sewer line in the area would be completed on June 1, 1986. He stated that the widening of Beverly Road for 1987 may have to be revised. He stated that many improvements would be dependent upon funds available. He said that the staff recommended imposing the moratorium for another ninety (90) days. He requested that the western and northwestern portions of the valley be taken in to the moratorium in order that they may be protected from development.

Mr. Ed Dyson, with the Haw Creek Homeowners Association, said that the Cinnamon Ridge Development Project was a concern of the area residents because the Haw Creek area is already heavily developed at the Middlebrook and Haw Creek Road intersection. He stated that the area cannot handle any more current development. He said that they are polling area residents to see if they would be interested in asking for a rezoning of the area from R-3 Residential District to a more restrictive zone - R-2 Residential District. He questioned whether there were any plans for removing the curbs on Beverly Road.

Mayor Bissette responded to Mr. Dyson by saying that he had received several calls on the widening of Beverly Road. He said that in the Pre-Council Work Session they discussed moving forward on getting a more definite estimate on that project. They would like to widen it as quicky as possible. He asked the Interim City Manager to look into getting these figures and reporting back to them. He said that the Council would like to get this project done in 1986.

Mr. Dyson asked about the proposed water line from Peach Knob into the Haw Creek area and the removal of the pumping station.

Mr. Dyson requested the Council look into the possibility of a new road by-passing Miller's Store. He would like to road to be from New Haw Creek Road to Avon Road. He said that that was a bad intersection and something needed to be done in order to get the traffic to Interstate 70. He stated that the area residents are in total support of extending this moratorium for an additional ninety (90) days.

Mr. Andler, resident of the Haw Creek area, requested that after the large sewer line is installed that the Council should look into the possibility of working on the small, old leader lines. He also supported the extension of the moratorium.

Mr. Frank Martin, resident of the Haw Creek area, thanked the Council for the extension of the moratorium. He suggested some way of tying sewer line work in with the other improvements needed in the area.

Councilman Michalove stated that he would like to see the curbs removed on Beverly Road very soon and asked that Council move quickly

Haywood Park Hotel Project.

Mayor Bissette opened the public hearing at 4:30 p.m.

The Interim City Manager presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Mr. Verl Emrick, Director of Planning and Zoning, said that the Asheville Planning and Zoning Commission, at a meeting held on February 26, 1986, reviewed the site plan of the Haywood Park Promenade (Starnes and Haywood Building), Phase II of the Haywood Park Hotel Project. He said that the site plan was prepared by Mr. John Rogers, Architect, for the Haywood Street Redevelopment Corporation, Developer, and it was submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. Mr. Emrick stated that after the Commission reviewed and discussed this site plan, they voted to recommend approval of it to Council.

Upon inquiry of a Council member, Mr. Rogers said that he did not have a new drawing of the new parking structure.

Upon inquiry of Councilman Price about access into the structure, Mr. Rogers produced a map and pointed out specific interests of the Council. Mr. Rogers stated that the anticipated completion date of the public spaces would be September, 1986, and the total number of spaces would be 145. Mr. Rogers said that the power lines are through the alley now but future ones will be going underground.

Councilman Tisdale commended Mr. Rogers for their efforts and wished them much success.

Mayor Bissette closed the public hearing at 4:37 p.m.

Councilman Michalove moved for the approval of the site plan of the site plan of the Haywood Park Promenade, (Phase II of the Haywood Park Hotel Project). This motion was seconded by Councilman Tisdale and carried unanimously.

ORDINANCE NO. 1575 - AN ORDINANCE AMENDING ORDINANCE NO. 1560 EXTENDING THE MORATORIUM LIMITING DEVELOPMENT IN THE HAW CREEK AREA

5. A public hearing was held relative to extending the present moratorium in the Haw Creek Area.

Mayor Bissette said that on December 17, 1985, Council adopted Ordinance No. 1560 imposing a moratorium on property in the Haw Creek Area for the issuance of any zoning or building permits and consideration of any request for group development review by the Planning and Zoning Commission. This moratorium expires on April 1, 1986, and a request has been received for Council to consider extending the moratorium for an additional ninety (90) days.

Mayor Bissette opened the public hearing at 4:40 p.m.

On a roll call vote of 7-0, Ordinance No. 1575 passed on its third and final reading.

Mayor Bissette stated that the moratorium will be extended until July 1, 1986.

Complete text of Ordinance No. 1575 will be found in Ordinance Book No. 10 at page 373. 374

RESOLUTION NO. 86-51 - RESOLUTION FIXING DATE OF PUBLIC HEARING ON QUESTION OF ANNEXATION OF A NON-CONTIGUOUS AREA NEAR THE INTERSECTION OF LONG SHOALS ROAD AND LEDBETTER ROAD, PURSUANT TO NORTH CAROLINA GENERAL STATUTE SEC. 160A-58.2 , AS AMENDED

6. Consideration was given to a resolution fixing date of public hearing on question of annexation of a non-contiguous area near the intersection of Long Shoals Road and Ledbetter Road, pursuant to North Carolina General Statute sec. 160A-58.2, as amended.

Mayor Bissette said that a petition requesting annexation of the non-contiguous area has been received. He said that the City Clerk has been directed to investigate the sufficiency of the petition and that certification as to the sufficiency of this petition has been made by the Clerk. He said that a public hearing will be held on April 8, 1986, at 4:00 p.m. in the Council Chambers.

Mayor Bissette said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Tisdale, seconded by Councilman Price, Resolution No. 86-51 was unanimously adopted.

Complete text of Resolution No. 86-51 will be found in Resolution Book No. 15 at page 472 + 473

RESOLUTION NO. 86-52 - RESOLUTION TO AMEND RESOLUTION NO. 80-158 REGARDING RULE NO. 34 OF THE RULES AND PROCEDURES FOR THE ASHEVILLE CITY COUNCIL

7. Consideration was given to a resolution to amend Resolution No. 80-158 regarding Rule No. 34 of the Rules and Procedures for the Asheville City Council.

Mayor Bissette said that this resolution will authorize settlement of worker's compensation claims and will not require individual approval by City Council. He said that this will amend Rule 34 of the Rules and Procedures for the Asheville City Council adopted by Resolution No. 80-158 dated August 21, 1980, and will read as follows: "The Employee Services Manager shall have the authority, upon written approval from the City Manager and the Corporation Counsel, to authorize settlements of claims against the City pertaining to Workers' Compensation. The City Manager shall have the authority upon written recommendation from the Corporation Counsel, to authorize settlements fo all other claims against the City which have

on this project. He responded to Mr. Dyson's question about the Peach Knob water line by saying that that is the Asheville-Buncombe Water Autority's jurisdiction and that the funding is through that authority. He gave Mr. Dyson the meeting time and date of the Asheville-Buncombe Water Authority and suggested that he attend their meeting and let them know of their interest. Councilman Michalove stated that he believed that the intersection at Miller's Store was part of the study. Councilman Michalove stated that not all back-ups are caused by sewer lines. He said that some problems are caused by storm drainage problems and if area residents can help raise funds to alleviate these problems, more improvements could be made. Councilman Michalove stated that they had approached the Buncombe County Commissioners with the idea of extending the one-mile extraterritorial jurisdiction in the Haw Creek area to three miles. They felt the County was not interested in changing the zoning status. He stated the time and dates for the County Commissioners meeting and suggested that the Haw Creek area residents attend a Buncombe County Commission meeting and let them know of their interests.

Councilman Price commented that the Peach Knob Project was one of the top ten priorities of the Water Authority and that the City Council will have an opportunity to have it presented before them.

Upon request of Councilman Price, Mr. Wolcott stated that he would get a map of the intersection by Miller's Store and show the Council the proposed new road that Mr. Dyson is requesting. He stated that he would get an estimate on that proposed new road.

Councilman Tisdale stated that he would be happy to work with the County Commissioners in trying to change the one-mile extraterritorial jurisdiction in the Haw Creek area to three miles. He said that if the County realizes that they are not asking for it City-wide they might be able to let them make it only in the Haw Creek area.

Mayor Bissette closed the public hearing at 5:00 p.m.

Mayor Bissette said members of Council were furnished copies of the ordinance and it would not be read in its entirety.

Councilman Tisdale moved for the adoption of Ordinance No. 1575. This motion was seconded by Councilman Price.

On a roll call vote of 7-0, Ordinance No. 1575 passed on its first reading.

Councilman Michalove moved to suspend the rules and proceed to the second reading of Ordinance No. 1575. This motion was seconded by Councilman Price and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1575 passed on its second reading.

Councilman Michalove moved to suspend the rules and proceed to the third and final reading of Ordinance No. 1575. This motion was seconded by Councilman Price and carried unanimously.

RESOLUTION NO. 86-53 - RESOLUTION OF THE ASHEVILLE CITY COUNCIL IN SUPPORT OF AN APPLICATION FOR CIVIL WORKS FUNDS FROM THE NORTH CAROLINA DEPARTMENT OF NATURAL RESOURCES AND COMMUNITY DEVELOPMENT FOR RIVERFRONT IMPROVEMENTS

Consideration was given to a resolution of the Asheville City Coounicl in support of an application for Civil Works Funds from the North Carolina Department of Natural Resources and Community Development for Riverfront Improvements.

Councilman Boland read the resolution stating that the City of Asheville desires to beautify and provide recreational opportunity on the French Broad River corridor running through the Asheville urban area and that it is the purpose of the City Council to seek support, technical expertise and funds for the planning and development of a comprehensive Riverfront Project. He said that this resolution shows that the Council supports and endorses an application filed by the French Broad River Foundation for Civil Works Funding which is administered through the North Carolina Department of Natural Resources and Community Development.

Councilman Boland moved for the adoption of Resolution No. 86-53. This motion was seconded by Vice-Mayor Frank.

Councilman Bratton stated that the concept is worth considering but feels strongly about projects that affect Buncombe County residents. She said that this is a prime opportunity to work with the County and perhaps this resolution could be a joint City/County resolution. She feels that we need to work with the County on this.

Councilman Boland stated that the Committee will be contacting the County Commissioners but this project is within the City exclusively. He stated that they had contacted the County informally and will be working with them in the future. Councilman Boland stressed the fact that the application has to include the support from the City. He stated that this resolution does not commit the City to anything except its support and that it in no way should interfere with the Council's priorities.

Councilman Price stated that she strongly supports the efforts of beautification of the French Broad River.

This motion carried unanimously. Complete text of Res.No. 86-53 will be found in Resolution Book 15 at page 475.

SCHEDULING PUBLIC HEARING - TREE ORDINANCE

Councilman Michalove moved to schedule a public hearing on April 15, 1986, to hear the Tree Ordinance proposed by the Tree Commission and ask for public comments with regard to that proposed ordinance. This motion was seconded by Councilman Boland and carried unanimously.

Councilman Bratton stressed that this public hearing be widely advertised in order to give everyone interested an opportunity to speak on the matter.

been duly presented to the City Council as required by the City Charter and which do not exceed the sum of $2,500.00. All such settlements shall be reported to the City Council in a timely fashion."

Mayor Bissette said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Michalove, seconded by Vice-Mayor Frank, Resolution No. 86-52 was unanimously adopted.

Complete text of Resolution No. 86-52 will be found in Resolution Book No. 15 at page ~~473.~~ 474.

CLAIM - JOHN BREWTON

The Interim City Manager presented a claim received by Mr. John Brewton.

Mayor Bissette referred the claim to the Corporation Counsel for investigation and recommendation.

SCHEDULING OF A PUBLIC HEARING FOR A SITE PLAN OF THE PROPOSED WICK AND GREENE PLAZA

Councilman Boland moved to schedule a public hearing on April 15, 1986, for a site plan of the proposed Wick and Greene Plaza to be located at the corner of Patton Avenue and Otis Street. This motion was seconded by Councilman Price and carried unanimously.

EXTENSION OF SALES AGREEMENT FOR THE SALE OF APPROXIMATELY 16.4 ACRES OF CITY-OWNED PROPERTY LOCATED EAST OF THE INTERSECTION OF FANNING BRIDGE ROAD AND AIRPORT ROAD TO AMERICAN DIECASTING ENGINEERING, INC. (RONAL WHEELS)

Councilman Bratton moved to extend the sales agreement for the sale of approximately 16.4 acres of City-owned property located east of the intersection of Fanning Bridge Road and Airport Road to American Diecasting Engineering, Inc. (Ronal Wheel) for an additional ninety (90) days which is through June 30, 1986, and that the Mayor be authorized to sign any and all documents relating to such extension of time. This motion was seconded by Councilman Boland and carried unanimously.

DISTRIBUTION OF OVERCHARGED EXXON FUNDS

Councilman Tisdale moved to send a letter to Governor Jim Martin, Lt. Governor Bob Jordan, House Speaker Liston Ramsey and Attorney General Lacy Thornburg suggesting that they consider using the Powell Bill formula as a means of distributing the $2 billion of North Carolina's share of the overcharged funds through North Carolina in order that each county in the state receive a portion of the money. Councilman Price seconded the motion and it carried unanimously.

Mayor Bissette said that the letter would be prepared.

NEXT CITY COUNCIL MEETING

Councilman Tisdale stated that the next meeting of the Asheville City Council will be held April 8, 1986. The April 1, 1986, meeting has been cancelled due to Easter holiday.

RALPH BISHOP

Mr. Ralph Bishop spoke to members of Council about lottery sales in the City of Asheville.

ADJOURNMENT

Councilman Boland moved to adjoun the meeting. This motion was seconded by Councilman Tisdale and carried unanimously.

MAYOR

CITY CLERK

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Pos. Not Cons.

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RECOGNITION FOR OUTSTANDING PLANNING AWARD - NORMA PRICE

6. Mayor Bissette said each year the North Carolina Chapter of the American Planning Association conducts an award program. This program is designed to recognize contributions of individuals and agencies who have completed outstanding plans, programs, and projects, or have made notable contributions to the planning profession. These awards will be presented at the annual meeting of the chapter in Chapel Hill on April 17. The City of Asheville's Planning Department has recently been notified of the following:

(1) Norma Price has been selected to be the recipient of the Outstanding Elected Official Award for her work as Chair of the "Alternatives for Asheville" committee. This award is given to an individual member of a local governing board in the state who has made outstanding contributions affecting planning programs or activities.

(2) The City of Asheville Planning staff has been selected to receive the Outstanding Planning Award. This award recognizes planners who initiate, develop, or administer a program, plan, project, or report of unusually high merit. The staff was selected for the recognition of the video presentation developed for utilization and its "Alternatives for Asheville" program.

Mayor Bissette recognized Councilman Norma Price, Patty Tallerday, Carol Alberice, Al Koph, and Julia Cogburn with the Asheville Planning Department.

RESOLUTION NO. 86-54 - RESOLUTION PROCLAIMING THE SECOND WEEK OF APRIL EACH YEAR AS TELECOMMUNICATOR/RADIO DISPATCHER WEEK

7. Consideration was given to a resolution proclaiming the second week of April each year as Telecommunicator/Radio Dispatcher Week.

Mayor Bissette said the professional Telecommunicator/Radio Dispatcher plays a crucial role in the protection of life and property, the preservation of society and its laws, and the provision of municipal services. The Telecommunicators/Radio Dispatchers in the City are highly dedicated and deeply motivated people who daily serve the citizens of Asheville in countless ways without due recognition by the beneficiaries of the services. They are front line contacts with the citizens of Asheville and the general public and are uniquely charged with the responsibility of maintaining citizen satisfaction and a positive image of the City of Asheville to the general public. This resolution will proclaim the second week in April of each year to be designated as "Telecommunicator/Radio Dispatcher Week."

Upon motion of Councilman Price, seconded by Councilman Boland, Resolution No. 86-54 was unanimously adopted.

Complete text of Resolution No. 86-54 will be found in Resolution Book No. 16 at page 1.

Mayor Bissette presented the resolution to Major Pipitone with the Asheville Police Department.

Tuesday - April 8, 1986 - 4:00 p.m.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding, Vice-Mayor Mary Lloyd Frank; Councilmen Wilhelmina Bratton, Walter R. Boland; Kenneth M. Michalove, Norma T. Price, and George M. Tisdale; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: None

INVOCATION

The invocation was given by Vice-Mayor Mary Lloyd Frank.

OATH OF OFFICE FOR CITY MANAGER DOUGLAS O. BEAN

1. Mayor Bissette administered the Oath of Office to Douglas O. Bean as City Manager.

Mayor Bissette thanked the Acting City Manager William F. Wolcott, Jr., for his services since October, 1985.

APPROVAL OF THE MINUTES - MARCH 25, 1986 MEETING

2. Consideration was given to the approval of the minutes of the March 25, 1986, meeting.

Mayor Bissette announced the approval of the minutes as submitted.

PROCLAMATION - "KIDS' SAFETY WEEK" - APRIL 7-13, 1986

3. Mayor Bissette read a proclamation proclaiming April 7-13, 1986, as "Kids' Safety Week."

Mayor Bissette presented the proclamation to Kim Yelton.

PROCLAMATION - WEEK OF APRIL 13 - "SPECIAL POPULATIONS WEEK"

4. Mayor Bissette read a proclamation proclaiming the week of April 13, 1986, as "Special Populations Week."

Mayor Bissette presented the proclamation to Grace Walker.

PROCLAMATION - "BARBERSHOP HARMONY MONTH" - MONTH OF APRIL, 1986

5. Mayor Bissette read a proclamation proclaiming the month of April as "Barbershop Harmony Month."

Mayor Bissette presented the proclamation to Mike Phipps, Chorus Manager for the Asheville Chapter/Land of Sky Chorus. The Asheville Chapter/Land of Sky Chorus sang for members of Council.

Mayor Bissette opened the public hearing at 4:45 p.m.

The City Clerk presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Larry Ward, with the Public Works Department, recommended approval of the resolution.

Mayor Bissette closed the public hearing at 4:46 p.m.

Mayor Bissette said members of Council were previously furnished copies of the resolution, and it would not be read in its entirety unless there was a specific request to do so.

Upon motion of Councilman Boland, seconded by Councilman Price, Resolution No. 86-55 was unanimously adopted.

Complete text of Resolution No. 86-55 will be found in Resolution Book No. 15 at page 2.

ORDINANCE NO. 1576 - AN ORDINANCE AMENDMENT TO APPROPRIATE FUNDS FOR RENTAL REHABILITATION PROGRAM

11. Consideration was given to a budget ordinance amendment to appropriate funds for the Rental Rehabilitation Program.

Mayor Bissette said this budget ordinance will appropriate funds for the Rental Rehabilitation Program which is administered by the Housing Authority and the City of Asheville and is grantee for funds provided by HUD. This will appropriate grant funds in the amount of $118,000 which has been approved by HUD.

Marvin Vierra, with the Community Development Department, explained the details of the Rental Rehabilitation Program stating that funds would be used for capital improvements only.

Mayor Bissette said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety unless there was a specific request to do so.

Councilman Michalove moved for the adoption of Ordinance No. 1576. This motion was seconded by Vice-Mayor Frank.

On a roll call vote of 7-0, Ordinance No. 1576 passed on first and final reading.

Complete text of Ordinance No. 1576 will be found in Ordinance Book No. 11 at page 1.

PUBLIC HEARING - SITE PLAN OF HAZELWOOD (WEISS) MOBILE HOME PARK, PHASE II - NORTH LOUISIANA AVENUE

8. A public hearing was held relative to a site plan of the Hazelwood (Weiss) Mobile Home Park, Phase II, to be located on North Louisiana Avenue.

Mayor Bissette said the Asheville Planning and Zoning Commission, at a meeting held February 26, 1986, reviewed the site plan of the Hazelwood (Weiss) Mobile Home Park, Phase II, to be located on North Louisiana Avenue. The site plan was prepared by Associated Land Technologies, Engineer, for Walter Weiss, Developer, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of the site plan to City Council subject to: 1) location of a fire hydrant within the site; 2) removal of four sites on the front of project to meet density requirement and provide open space; and 3) compliance with the Erosion Control Ordinance.

Mayor Bissette opened the public hearing at 4:40 p.m.

The City Manager presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said the Asheville Planning and Zoning Commission had reviewed the plans and recommended approval subject to several conditions.

Mayor Bissette closed the public hearing at 4:44 p.m.

Councilman Tisdale moved to approve the site plan of the Hazelwood (Weiss) Mobile Home Park, Phase II, to be located on North Louisiana Avenue subject to: 1) location of a fire hydrant within the site; 2) removal of four sites on the front of project to meet density requirement and provide open space; and 3) compliance with the Erosion Control Ordinance. This motion was seconded by Councilman Michalove and carried unanimously.

PUBLIC HEARING - CLOSING OF PORTION OF UNNAMED ALLEY OFF PEARSON DRIVE

RESOLUTION NO. 86-55 - RESOLUTION TO CLOSE A PORTION OF UNNAMED ALLEY OFF PEARSON DRIVE

9. A public hearing was held relative to closing a portion of an unnamed alley off Pearson Drive.

Mayor Bissette said a petition has been filed by Kathleen Garren and William Garren, owners of property adjoining a portion of an unnamed alley between Madison Street and Gray Street off Pearson Drive, asking that the portion of this alley adjoining Lots 54 and 59 of Ward 3, Sheet 9 of the Buncombe County Tax Maps be permanently closed to public use. Resolution No. 85-33, a resolution of intent to close a portion of an unnamed alley off Pearson Drive, was adopted by City Council on March 4, 1986.

Mayor Bissette said the City is a recipient of funds under Sections 9 and 5 of the Urban Mass Transportation Act. Section 504 of the Rehabilitation Act of 1974 and Section 16 (a) of the Urban Mass Transportation Act of 1964, as amended, require that the City provide public transportation services within the corporate City limits to qualified handicapped individuals, including wheelchair users and semi-ambulatory persons. These services may be provided by the Asheville Transit Authority or through the use of a private agency. The American Red Cross is willing to provide these services on an annual basis. This resolution will authorize the Mayor to execute an agreement with the American Red Cross. The funding has been placed in a budget amendment for FY 86 operating assistance funds for the Transit Authority.
Amount: $4,400.00
Period: April, May, June, 1986

Mayor Bissette said members of Council were previously furnished copies of the resolution and it would not be read in its entirety unless there was a specific request to do so.

Upon motion of Councilman Tisdale, seconded by Councilman Boland, Resolution No. 86-57 was unanimously adopted.

Complete text of Resolution No. 86-57 will be found in Resolution Book No. 16 at page 4.

RESOLUTION NO. 86-58 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A MUNICIPAL AGREEMENT WITH THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION FOR CERTAIN STREET AND HIGHWAY CONSTRUCTIONS/IMPROVEMENTS UNDER PROJECT NO. 8.7384012, BUNCOMBE COUNTY

15. Consideration was given to a resolution authorizing the Mayor to execute a municipal agreement with the North Carolina Department of Transportation for certain street and highway constructions/improvements under Project No. 8.7384012, Buncombe County.

Mayor Bissette said the North Carolina Department of Transportation has prepared and adopted plans to make certain street and highway improvements under Project No. 8.7384012. The North Carolina Department of Transportation and the City of Asheville propose to enter into an Agreement for the above-captioned project whereby the City of Asheville agrees: (1) to exercise any rights under any franchise to effect the necessary adjustments of certain utilities without cost to the North Carolina Department of Transportation, and (2) to provide for the adjustment of any City of Asheville owned utilities without cost to the North Carolina Department of Transportation, except that the North Carolina Department of Transportation will reimburse the City of Asheville in accordance with the North Carolina Department of Transportation's Municipally Owned Utility Policy. The City of Asheville agrees to reimburse the Department of Transportation to the extent of 20% of the cost of the right-of-way for Safety Projects (1) US 25 (Merrimon Avenue) and SR 1781 (Broadway Avenue); and (2) SR 3548 (Patton Avenue) and SR 3548 (Clingman Avenue) with reimbursement to be made in five (5) equal annual installments to begin on October 15, 1986.

ORDINANCE NO. 1577 - BUDGET ORDINANCE AMENDMENT FOR FISCAL YEAR 1986 OPERATING ASSISTANCE GRANT (TRANSIT AUTHORITY)

12. Consideration was given to a budget ordinance amendment for fiscal year 1986 Transit Authority Operating Assistance Grant.

Mayor Bissette said due to an Asheville Transit Authority liability insurance increase and contracted transportation services with the American Red Cross, the City must request additional funds from UMTA.

Carl Ownbey, with the Asheville Transit Authority, explained the need for the additional funds from UMTA.

Mayor Bissette said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety unless there was a specific request to do so.

Councilman Boland moved for the adoption of Ordinance No. 1577. This motion was seconded by Councilman Tisdale.

On a roll call vote of 7-0, Ordinance No. 1577 passed on first and final reading.

Complete text of Ordinance No. 1577 will be found in Ordinance Book No. 11 at page 2.

RESOLUTION NO. 86-56 - RESOLUTION AUTHORIZING THE MAYOR TO FILE A GRANT AMENDMENT ON BEHALF OF THE CITY OF ASHEVILLE WITH THE URBAN MASS TRANSPORTATION ADMINISTRATION

13. Consideration was given to a resolution authorizing the Mayor to file a Grant Amendment on behalf of the City of Asheville with the Urban Mass Transportation Administration.

Mayor Bissette said this resolution will authorize the Mayor to execute any grant amendment agreements for transportation projects.

Mayor Bissette said members of Council were previously furnished copies of the resolution and it would not be read in its entirety unless there was a specific request to do so.

Upon motion of Vice-Mayor Frank, seconded by Councilman Michalove, Resolution No. 86-56 was unanimously adopted.

Complete text of Resolution No. 86-56 will be found in Resolution Book No. 16 at page 3.

RESOLUTION NO. 86-57 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT ON BEHALF OF THE CITY OF ASHEVILLE WITH THE ASHEVILLE AREA CHAPTER OF THE AMERICAN RED CROSS

14. Consideration was given to a resolution authorizing the Mayor to execute an agreement on behalf of the City of Asheville with the Asheville Area Chapter of the American Red Cross.

Mayor Bissette closed the public hearing at 5:08 p.m.

Mayor Bissette said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety unless there was a specific request to do so.

Councilman Tisdale moved for the adoption of Ordinance No. 1578 with the provision that the agreement relative to the sewer line be completed prior to the third reading of the ordinance. This motion was seconded by Councilman Michalove.

On a roll call vote of 7-0, Ordinance No. 1578 passed on first reading.

RESOLUTION NO. 86-59 - RESOLUTION AUTHORIZING THE DIRECTOR OF PARKS, RECREATION, AND PUBLIC FACILITIES DEPARTMENT TO SIGN A COMMITMENT OF SITE FACILITY USE FOR THE NUTRITION FOR OLDER AMERICANS AT CERTAIN RECREATION CENTERS

17. Consideration was given to a resolution authorizing the Director of Parks, Recreation, and Public Facilities Department to sign a Commitment of Site Facility Use for the Nutrition for Older Americans at certain recreation centers.

Mayor Bissette said this resolution will authorize the Director of Parks, Recreation, and Public Facilities be authorized to sign a Commitment of Site Facility Use for the Nutrition Program for Older Americans at Reid Memorial Recreation Center.

Mayor Bissette said members of Council were previously furnished copies of the resolution and it would not be read in its entirety unless there was a specific request to do so.

Upon motion of Councilman Price, seconded by Vice-Mayor Frank, Resolution No. 86-59 was unanimously adopted.

Complete text of Resolution No. 86-59 will be found in Resolution Book No. 16 at page 6.

RESOLUTION NO. 86-60 - RESOLUTION AUTHORIZING THE MAYOR ON BEHALF OF THE CITY OF ASHEVILLE TO EXECUTE ANY AND ALL DOCUMENTS NECESSARY TO CONVEY PROPERTY DEEDED TO THE CITY OF ASHEVILLE BY THE ASHEVILLE CITY BOARD OF EDUCATION AND ADJACENT TO THE "SWAIN PROPERTY"

18. Consideration was given to a resolution authorizing the Mayor on behalf of the City of Asheville to execute any and all documents necessary to convey property deeded to the City of Asheville by the Asheville City Board of Education and adjacent to the "Swain Property."

Mayor Bissette said this resolution will authorize the Mayor to execute any documents required to convey an approximately two-acre tract located between the Ira B. Jones Elementary School property and the "Swain Property" to the Asheville City Board of Education.

Mayor Bissette said members of Council were furnished copies of the resolution and it would not be read in its entirety unless there was a specific request to do so.

Councilman Tisdale noted that the right-of-way costs to the City would be payable over a five-year period.

Councilman Michalove noted that the City picks up right-of-way costs for highway improvements through municipal agreements which is an additional cost to City residents only. He said the County does not participate in costs concerning highway construction improvements.

Councilman Michalove also noted that any costs associated with the adjustment of water and sewer lines should be handled through the Water Authority budget.

Upon motion of Councilman Michalove, seconded by Vice-Mayor Frank, Resolution No. 86-58 was unanimously adopted.

Complete text of Resolution No. 86-58 will be found in Resolution Book No. 16 at page 5.

PUBLIC HEARING - ANNEXATION OF PROPERTY ON LONG SHOALS ROAD AND LEDBETTER ROAD

ORDINANCE NO. 1578 - AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE CITY OF ASHEVILLE, NORTH CAROLINA, BY ANNEXING A NON-CONTIGUOUS AREA NEAR THE INTERSECTION OF LONG SHOALS ROAD AND LEDBETTER ROAD, PURSUANT TO THE REQUEST OF THE PROPERTY OWNER

16. A public hearing was held relative to annexation of a non-contiguous area near the intersection of Long Shoals Road and Ledbetter Road, pursuant to North Carolina General Statute Section 160A-58.2, as amended.

Mayor Bissette said a petition requesting annexation of the non-contiguous area has been received. Certification as to the sufficiency of this petition has been made by the City Clerk.

Mayor Bissette opened the public hearing at 5:01 p.m.

The City Clerk presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said the annexation petition meets all statutory requirements and is within the three-mile limit of annexation authority.

Corporation Counsel Slawter said a release has been prepared for the property owners to sign releasing the City of Asheville from providing sewer services to the area, and stating that they are satisfied with the present sewer system.

PETITION PRESENTED - WEST ASHEVILLE COMMUNITY CENTER COMMITTEE - REQUEST FOR NEW COMMUNITY CENTER

Mayor Bissette said a petition had been presented to Council during today's Pre-Council meeting, by the West Asheville Community Center Committee which reads as follows "We, the undersigned residents of West Asheville, hereby petition the Asheville City Council for a Community Center with adequate facilities to accommodate activities of the senior citizens, the youth, and the general public. A facility with a gymnasium, playing field for baseball, softball, and football, adequate parking with safe and easy access and room, and the facility to hold community gatherings. The present West Asheville Community Center on Haywood Road is not adequate to accommodate the programs for the elderly, the youth, daycare, and many other needs such as workshops, seminars, and community meetings. The parking area provided is for the use of library patrons, and is not adequate or practical for those attending anything at the Community Center. Use of an existing, publicly owned property would seem to make practical sense from an economical standpoint." The petition contained approximately 500 signatures.

Mayor Bissette noted that during the pre-Council meeting, Council members had referred the petition to the Parks and Recreation Advisory Board and the Parks, Recreation, and Public Facilities Department for further information which will be available within three weeks.

JUDGE FRANK PARKER RETAINED FOR MELVIN WALSH CASE

Vice-Mayor Frank moved that Judge Frank Parker be retained for the appeal of the Melvin Walsh case. This motion was seconded by Councilman Michalove and carried unanimously.

ANNOUNCEMENT - "HANDS ACROSS ASHEVILLE EVENT"

Mayor Bissette noted that Jay Banks and George Phiffer attended the Pre-Council work session to enlighten Councilmembers of the "Hands Across Asheville" Event on May 25, 1986, at 12:30 p.m.

CLAIMS - TERRY BRACKETT (WATER) - KASEY CONSTRUCTION (SEWER) - JEAN MILLER (MANAGEMENT SERVICES) - INN ON THE PLAZA (SEWER) - IVA JEAN PAYNE (SEWER) - NANCY HYATT (WATER) - ANTON CHEVROLET (WATER) - KANE-PUTNAM PART. (WATER) - MARTHA WILLIAMS (STREETS)

The City Manager presented claims received from Terry Brackett, Kasey Construction, Jean Miller, Inn on the Plaza, Iva Jean Payne, Nancy Hyatt, Anton Chevrolet, Kane-Putnam Part., and Martha Williams.

Mayor Bissette referred the claims to the Corporation Counsel for investigation and recommendation.

Mayor Bissette said members of Council were previously furnished copies of the resolution and it would not be read in its entirety unless there was a specific request to do so.

Upon motion of Vice-Mayor Frank, seconded by Councilman Price, Resolution No. 86-60 was unanimously adopted.

Complete text of Resolution No. 86-60 will be found in Resolution Book No. 16 at page 7.

BIDS - FURNISHED RENTAL UNIFORMS AND SERVICE TO EMPLOYEES IN VARIOUS DEPARTMENTS FOR TWO YEARS

19. Consideration was given to a motion relative to bids received to furnish rental uniforms and service to employees of various departments for two years.

Mayor Bissette said sealed bids were invited to furnish rental uniforms and service to 143 employees in various departments. Two bids were received. National Linen Service, 115 Fairview Road, Asheville, was the low bidder. During the bid evaluation process, Harold Huff, Director of Water and Sewer Services, informed Norwood Dunn, Purchasing Director, that all uniforms for his department were to be purchased and not rented. Mr. Jerry Barkley, Branch Manager of National Linen Service agreed to provide rental uniform service at the same weekly rate as bid for the remaining 33 employees. Fiscal impact totals $13,555.36 for the two year contract. Sufficient funds are provided in the individual budgets of the various departments and divisions.

After discussion, relative to funding, action relative to approval of the bids was postponed until April 15, 1986.

BIDS - HERBICIDE FOR THE PUBLIC WORKS, STREET DIVISION, AND PARKS, RECREATION, AND PUBLIC FACILITIES DEPARTMENT

Consideration was given to a motion relative to bids received for herbicide for the Public Works, Street Division, and Parks, Recreation, and Public Facilities Department.

Mayor Bissette said sealed bids were invited to furnish the estimated 1986 season requirements of 350 gallons of herbicide for the Public Works, Street Division, and Parks, Recreation, and Public Facilities Department's annual treatment of undesirable vegetation and right-of-way maintenance program. Six bids were received. It is recommended to award this contract to the lowest bidder, Helena Chemical Company, Enfield, N.C. Purchases will be made on an as needed basis. Total amount of fiscal impact is $26,141.50 - $74.69 per gallon. Funding will be from the Street Division's appropriation, Account Code 10-427-038 and Parks, Recreation, and Public Facilities appropriation, Account Code 17-502.0320.

Vice-Mayor Frank moved to approve the bids for herbicide to the lowest bidder, Helena Chemical Company, in the total amount of $26,141.50. This motion was seconded by Councilman Price and carried unanimously.

Tuesday, April 15, 1986 - 4:00 p.m.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Mary Lloyd Frank; Councilmen Wilhelmina Bratton, Walter R. Boland; Kenneth M. Michalove, Norma T. Price, and George M. Tisdale; Corporation Counsel William F. Slawter; City Manager Douglas Bean, and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: None

INVOCATION

Councilman Bratton introduced Rev. Presley with the Beverly Hills Baptist Church who gave the invocation.

APPROVAL OF THE MINUTES - APRIL 8, 1986 MEETING

1. Consideration was given to the approval of the minutes of the April 8, 1986 meeting.

Mayor Bissette announced the approval of the minutes as submitted.

ANNOUNCEMENT RELATIVE TO SOUTH PACK PLAZA PROJECT

2. Mayor Bissette read the following press release:

April 15, 1986

SUBJECT: South Pack Plaza Project

I am very pleased to announce that an agreement has been reached between Schneider Nine and a group of local financial institutions for a $5,900,000.00 conventional loan on the South Pack Plaza Project. This agreement should clear the way for construction to begin on the Project in the very near future.

This Project is an example of the very finest in public/private cooperation. This Project includes the equity participation by the Developer, a Federal Urban Development Action Grant, City/County participation in the Project's public improvements and participation by eight local financial institutions in the construction and permanent financing.

I want to take this opportunity to publicly commend all of the parties involved, but particularly those financial institutions whose interest and commitment to this community have finally made this project a reality. The following financial institutions have agreed to participate in the South Pack Plaza Project:

Asheville Federal Savings & Loan Association
Blue Ridge Savings & Loan Association
Branch Bank & Trust Company
Clyde Savings & Loan Association
First Federal Savings & Loan Association
First Union National Bank
NCNB National Bank of North Carolina
Wachovia Bank & Trust Company, N.A.

RALPH BISHOP - LOTTERY SALES AND OBTAINING CITY RECORDS

Ralph Bishop spoke to members of Council relative to the lottery sales in the City of Asheville, the Asheville Police Department, and obtaining records relative to James J. Moulds.

Mayor Bissette informed Mr. Bishop that the staff would look at the General Statutes to determine whether or not the records are public records and available for the inspection of the public.

ATTENDANCE AT NUCLEAR DEPOSITORY MEETING

Mayor Bissette thanked Vice-Mayor Frank and Councilman Tisdale for attending the public hearings on April 4 relative to the proposed nuclear depository site.

ADJOURNMENT

Upon motion of Councilman Tisdale, seconded by Vice-Mayor Frank, the meeting adjourned at 5:30 p.m.

MAYOR

CITY CLERK

Mr. Earick said the project meets all the criteria of the group development section of the Asheville Zoning Ordinance and is recommended for approval. By the use of a map, Mr. Earick showed the location of the proposed project. He said plans for sidewalks and streets in the project are compatible with other developers in the Wall Street area. He said the project is also compatible with the suggestions of the Urban Design Workshop.

Mr. Earick said the developers, Mr. Paul Greene, with Wick and Greene Jewelers, would be meeting with other developers on Wall Street relative to the design of streets and sidewalks.

John Rogers, Architect, said the project would entail the renovation and an addition to the old service station at the corner of Patton Avenue and Otis Street, and would be used by Wick and Greene Jewelers.

Mayor Bissette closed the public hearing at 4:29 p.m.

Councilman Boland moved for the approval of the site plan of the proposed Wick and Greene Plaza to be located at the corner of Patton Avenue and Otis Street, said approval to be only up to the property line of the project. This action was seconded by Councilman Tisdale and carried unanimously.

PRESENTATION OF TREE CITY USA AWARD

6. Ray Kisiah introduced Fred White with the North Carolina Division of Forestry who presented the City of Asheville with the Tree City USA Award.

Susan Mayer with Quality Forward said this was the sixth year the City of Asheville had received the award.

PUBLIC HEARING - PROPOSED TREE ORDINANCE

7. A public hearing was held relative to a proposed tree ordinance.

Mayor Bissette opened the public hearing at 4:35 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Mayor Bissette announced that Council would only be taking public comments relative to the ordinance today. He said the first reading of the ordinance would be considered at a later date.

Ray Kisiah, Director of Parks, Recreation, and Public Facilities Department, summarized the proposed ordinance, stating that the purpose of the ordinance was for the preservation and protection of trees on City property and City rights-of-way, and on front lines of private property up to the setback lines outlined in the particular zone set out in the Zoning Ordinance. He said trees may be removed only after securing a permit to do so. He said the Asheville Tree Commission would be setting certain pruning standards. He said it is hopeful that the ordinance will slow down the process of the removal of trees in the City of Asheville.

These financial institutions and their local representatives have worked extremely hard to put in place this final part of the complex South Pack Plaza downtown rehabilitation project. On behalf of the City Council and the City of Asheville, I want to thank them for their support of this extremely important community project.

Councilman Bratton also thanked Mayor Bissette for his time, effort and energy working on the South Pack Plaza Project financing.

PROCLAMATION - WEEK OF APRIL 20-26, 1986 - "NATIONAL CONSUMERS WEEK"

3. Mayor Bissette read a proclamation proclaiming the week beginning April 20, 1986, as "National Consumers Week".

RESOLUTION NO. 86-61 - RESOLUTION OF APPRECIATION AND COMMENDATION TO MARY ANN MORRIS

4. Consideration was given to a resolution of appreciation and commendation to Mary Ann Morris.

Mayor Bissette said Mary Ann Morris has served the citizens of Asheville as a dedicated City employee since September 20, 1948. She has earned the admiration and friendship of her co-workers and citizens of Asheville, whom she has served faithfully for so long. On May 1, 1986, she will retire from the City of Asheville.

Upon motion of Councilman Tisdale, seconded by Councilman Michalove, Resolution No. 86-61 was unanimously adopted.

Mayor Bissette presented a copy of the resolution to Mary Ann Morris.

Complete text of Resolution No. 86-61 will be found in Resolution Book No. 16 at page 8.

PUBLIC HEARING - SITE PLAN OF PROPOSED WICK AND GREENE PLAZA - CORNER OF PATTON AVENUE AND OTIS STREET

5. A public hearing was held relative to a site plan of the proposed Wick and Greene Plaza to be located at the corner of Patton Avenue and Otis Street.

Mayor Bissette opened the public hearing at 4:25 p.m.

The City Clerk presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said the Asheville Planning and Zoning Commission at a meeting held March 19, 1986, reviewed the site plan of the proposed Wick and Greene Plaza to be located at the corner of Patton Avenue and Otis Street. The site plan was prepared by John Rogers, Architect, for Mr. Paul Greene, Wick and Greene Jewelers, Developer, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of the site plan to City Council.

ORDINANCE NO. 1579 - AN ORDINANCE AMENDING SECTION 28-81.3 OF ARTICLE IV, SPEED REGULATIONS, OF CHAPTER 28 OF THE CODE OF ORDINANCES FOR THE CITY OF ASHEVILLE (GLEN FALLS ROAD, BLACKWOOD ROAD AND GRIFFING BOULEVARD)

8. Consideration was given to an Ordinance amending Section 28-81.3 of Article IV, Speed Regulations, of Chapter 28 of the Code of Ordinances for the City of Asheville.

Mayor Bissette said this ordinance will lower the speed limit to 25 m.p.h. on the following streets: Glen Falls Road, Blackwood Road and Griffing Boulevard.

Mayor Bissette said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Councilman Price moved for the adoption of Ordinance No. 1579. This motion was seconded by Councilman Boland.

On a roll call vote of 7-0, Ordinance No. 1579 passed on first reading.

Councilman Michalove moved to suspend the rules and proceed to the second reading of Ordinance No. 1579. This motion was seconded by Councilman Tisdale and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1579 passed on second reading.

Councilman Michalove moved to suspend the rules and proceed to the third reading of Ordinance No. 1579. This motion was seconded by Councilman Boland and failed on a voice vote of 4-3.

ORDINANCE NO. 1578 - AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE CITY OF ASHEVILLE, NORTH CAROLINA, BY ANNEXING A NON-CONTIGUOUS AREA NEAR THE INTERSECTION OF LONG SHOALS ROAD AND LEDBETTER ROAD, PURSUANT TO THE REQUEST OF THE PROPERTY OWNER

9. Consideration was given to the second reading of Ordinance No. 1578, an ordinance to extend the corporate limits of the City of Asheville, North Carolina, by annexing a non-contiguous area near the intersection of Long Shoals Road and Ledbetter Road, pursuant to the request of the property owner.

Mayor Bissette said the City of Asheville has been petitioned under N. C. Gen. Stat. Sec 160A-58.1, as amended, to annex a non-contiguous area near the intersection of Long Shoals Road and Ledbetter Road. The City Clerk has been directed to investigate the sufficiency of the petition. The City Clerk has certified the sufficiency of the petition and a public hearing was held on April 8, 1986. This ordinance passed on first reading at the April 8, 1986 meeting.

Mayor Bissette said this ordinance was previously read on first reading and would not be reread in its entirety unless there was a specific request to do so.

Susan Mayer, with Quality Forward, spoke in support of the ordinance and said the City of Asheville would need to hire a horticulturist or arborist to enforce the tree ordinance.

Upon inquiry of Councilman Michalove, Mr. Kisiah said it would cost approximately $30,000.00 to enforce the ordinance.

The following individuals spoke in support of the ordinance:

Melinda Woods, Kenilworth
Steve Bowman, Real Estate Broker
Tom Youngblood - Peterson, Coordinator of MAGIC
Richard Lance, 16 St. Dunstans Circle
Pat Patton, North Asheville
Mack Hanner, 5 Kimberly Avenue
Jim Samsel, Architect
Carolyn Tingle
Barry Master, Pisgah Legal Services, representing the low income elderly residents on Montford Avenue
Larry Holt, Chairman of Quality Forward and Deputy Executive Director of the Housing Authority
Peter Austin, Hillside Avenue
Bonnie Burnette, Burnette Landscaping
Lowell Orbinson, Member of the Asheville Tree Commission
Anthony Lord, Architect and member of the Asheville Tree Commission
Roger Smith, member of the Asheville Tree Commission
Elrita Nesby, member of the Asheville Tree Commission
Mrs. Charles Waddell
Marty Miller
John Broadbrooks, Chairman of the Asheville Tree Commission and Architect
LaRue Bolick, Quality Forward
Doug Campbell, President of the American Institute of Architects
Annabelle Green
Ernest Hamill
Dorothy Davis
E. H. Ledherer, Lakeview Park Commission
Sybil Bowers, Historic Resources Commission
Carol Bowman

The following individuals spoke against the ordinance stating that the ordinance would be taking away the rights of private property owners:

Wayne Kinser, Developer
Gay Williams

Councilman Michalove said he was concerned about passing another ordinance that might not be enforced because of infringing on the rights of private property owners. He said he would like for the City Attorney to look into the legality of the enforcement of the ordinance prior to adoption.

Councilman Boland said he felt trees and the City's environment is very important.

Mayor Bissette closed the public hearing at 6:05 p.m.

CLAIMS - C. L. McMAHAN (WATER) - MRS. FREDRICK GOETZ (STREETS) - CLYDE CONNER (WATER)

The City Manager presented claims received from C. L. McMahan, Mrs. Fredrick Goetz and Clyde Conner.

Mayor Bissette referred the claims to the Corporation Counsel for investigation and recommendation.

LAWSUITS - ASHEVILLE HOUSING AUTHORITY VS. JOHN N. DAVIS ET ALS (CONDEMNATION RANKIN AVENUE PARKING LOTS)

The City Manager said the City was served with a summons in connection with a lawsuit involving the Asheville Housing Authority vs. John N. Davis et als regarding condemnation proceedings involving the Rankin Avenue parking lots.

Mayor Bissette referred the summons to the Corporation Counsel for investigation and recommendation.

ADJOURNMENT

Upon motion of Councilman Boland, seconded by Councilman Tisdale, the meeting adjourned at 6:40 p.m.

William F. Moreau
CITY CLERK

L. Glo Bissette
MAYOR

Corporation Counsel Slawter said an agreement had been reached with the property owners relative to the sewer line in the area.

On a roll call vote of 7-0, Ordinance No. 1578 passed on second reading.

BIDS - RENTAL UNIFORMS AND SERVICE TO EMPLOYEES IN VARIOUS DEPARTMENTS FOR TWO YEARS

10. Consideration was given to a motion relative to bids received to furnish rental uniforms and service to employees in various departments for two years.

Mayor Bissette said sealed bids were invited to furnish rental uniforms and service to 143 employees in various departments. Two bids were received. National Linen Service, 115 Fairview Road, Asheville, was the low bidder. During the bid evaluation process, Harold Huff, Director of Water and Sewer Services, informed Norwood Dunn, Purchasing Director, that all uniforms for his department were to be purchased and not rented. Mr. Jerry Barkley, Branch Manager of National Linen Service agreed to provide rental uniform service at the same weekly rate as bid for the remaining 33 employees. These bids were discussed at the April 8 meeting and action was postponed until the April 15 meeting. He said the total for the two year contract is $13,555.36. He said sufficient funds are provided in the individual budget of the various departments and divisions.

Councilman Tisdale moved to approve the bid of National Linen Service in the amount of $13,555.36. This motion was seconded by Councilman Boland and carried unanimously.

RESOLUTION NO. 86-62 - RESOLUTION AUTHORIZING THE MAYOR TO FILE ON BEHALF OF THE CITY OF ASHEVILLE AN APPLICATION FOR FEDERAL FUNDING ADMINISTERED THROUGH THE GOVERNORS HIGHWAY SAFETY PROGRAM AND AUTHORIZING THE PROJECT DIRECTOR TO EXECUTE ANY AGREEMENTS OR DOCUMENTS REQUIRED TO CARRY OUT THE PROJECT SHOULD THE GRANT BE APPROVED

11. Consideration was given to a resolution authorizing the Mayor to file on behalf of the City of Asheville an application for federal funding administered through the Governors Highway Safety Program and authorizing the Project Director to execute any agreements or documents required to carry out the project should the grant be approved.

Mayor Bissette read the resolution stating that the application would be to the Governors Highway Safety Program for federal funding in the amount of $21,600.00 to be made to the City of Asheville to assist and defray the cost of the Community Seat Belt Program.

Upon motion of Councilman Michalove, seconded by Councilman Bratton, Resolution No. 86-62 was unanimously adopted.

Complete text of Resolution No. 86-62 will be found in Resolution Book No. 16 at Page 9 and 10.

ORDINANCE NO. 1580 - AN ORDINANCE REPEALING ORDINANCE NO. 1226 AND ORDINANCE NO. 1479 AND ESTABLISHING IN LIEU THEREOF A NEW ORDINANCE REGARDING DOG LICENSE TAXES

4. Consideration was given to an ordinance repealing Ordinance No. 1226 and Ordinance No. 1479 and establishing in lieu thereof a new ordinance regarding dog license taxes.

Mayor Bissette said this ordinance will repeal Ordinance No. 1226 and Ordinance No. 1479 and will establish a combined, amended dog control and license ordinance.

The City Manager indicated that this ordinance would give authority for the Animal Control Officers to write civil violations to owners who allow their dogs to run at large and who fail to display license tags on dogs running loose.

Mayor Bissette said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Councilman Price moved for the adoption of Ordinance No. 1580. This motion was seconded by Councilman Boland.

On a roll call vote of 7-0, Ordinance No. 1580 passed on first reading.

Councilman Michalove moved to suspend the rules and proceed to the second reading of Ordinance No. 1580. This motion was seconded by Councilman Price and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1580 passed on second reading.

Councilman Michalove moved to suspend the rules and proceed to the third and final reading of Ordinance No. 1580. This motion was seconded by Councilman Price and carried unanimously.

On a roll call of of 7-0, Ordinance No. 1580 passed on third and final reading.

Complete text of Ordinance No. 1580 will be found in Ordinance Book No. 11 at pages 7 and 8.

ORDINANCE NO. 1581 - AN ORDINANCE AMENDING ORDINANCE NO. 1481, (ANIMALS AND FOWLS) OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE

5. Consideration was given to an ordinance amending Ordinance No. 1481 (Animals and Fowls) of the Code of Ordinances of the City of Asheville.

Mayor Bissette said with these amendments, the animal control officers will be able to write a civil violation to owners (1) who allow their dog(s) to run at large; and (2) who fail to display the license tag on a dog who is running at large. The failure to purchase a license tag will remain a misdemeanor.

Tuesday - April 22, 1986 - 4:00 p.m.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Mary Lloyd Frank; Councilmen Wilhelmina Bratton, Walter R. Boland; Kenneth M. Michalove, Norma T. Price, and George M. Tisdale; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Deputy City Clerk Carol Hensley.

Absent: Associate City Manager/City Clerk William F. Wolcott, Jr.

INVOCATION

The invocation was given by Councilman Michalove.

APPROVAL OF THE MINUTES - APRIL 15, 1986 MEETING

1. Consideration was given to the approval of the minutes of the April 15, 1986, meeting.

Mayor Bissette announced the approval of the minutes as submitted.

PROCLAMATION - APRIL 22 - "DEPARTMENT OF PARKS, RECREATION, AND PUBLIC FACILITIES VOLUNTEER RECOGNITION DAY"

2. Mayor Bissette read a proclamation proclaiming April 22, 1986, as "Department of Parks, Recreation, and Public Facilities Volunteer Recognition Day" in Asheville.

Ray Kisiah, Director of Parks and Recreation, recognized Marlena Renwick, Director of the Reid Recreation Center, who introduced Sister Marie Day, recently named Volunteer of the Year.

Marlena Renwick, Director of the Reid Recreation Center, said Sister Day was involved in many of the programs at the Reid Recreation Center and tutored students, kindergarten through sixth grade. She said Sister Day is a retired classroom nun from St. Genevieve's and is truly an asset to the community and the recreation center.

Mayor Bissette said the proclamation would be presented to Sister Day at a Volunteer Recognition Dinner on April 22, 1986 at 6:30 p.m. at the Reid Center.

PROCLAMATION - MAY 1, 1986 AS "LOYALTY DAY"

3. Mayor Bissette read a proclamation proclaiming May 1 as "Loyalty Day" in the City of Asheville.

Mayor Bissette presented the proclamation to Stanley Parker and Berdie Wallace, representing the VFW organization.

ORDINANCE NO. 1583 - BUDGET ORDINANCE AMENDMENT FOR MCDOWELL STREET IMPROVEMENTS

7. Consideration was given to a budget ordinance amendment for McDowell Street improvements.

Mayor Bissette said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Vice-Mayor Frank moved for the adoption of Ordinance No. 1583. This motion was seconded by Councilman Price.

On a roll call vote of 7-0, Ordinance No. 1583 passed on first and final reading.

Complete text of Ordinance No. 1583 will be found in Ordinance Book No. 11 at page 12.

ORDINANCE NO. 1579 - AN ORDINANCE AMENDING SECTION 28-81.3 OF ARTICLE IV, SPEED REGULATIONS, OF CHAPTER 28 OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE

8. Consideration was given to the third reading of Ordinance No. 1579, an ordinance amending Section 28-81.3 of Article IV, Speed Regulations, of Chapter 28 of the Code of Ordinances of the City of Asheville.

Mayor Bissette said this ordinance will lower the speed limit to 25 m.p.h. on the following streets: Glen Falls Road, Blackwood Road and Griffing Boulevard. This ordinance passed on first and second reading at the April 15, 1986 meeting.

Mayor Bissette said this ordinance was previously read on first and second reading and would not be reread in its entirety unless there was a specific request to do so.

On a roll call vote of 7-0, Ordinance No. 1579 passed on third and final reading.

Complete text of Ordinance No. 1579 will be found in Ordinance Book No. 11 at page 6.

Councilman Michalove requested that the City Manager direct the Police Department to give a thirty day warning of the speed limit change prior to issuing speeding citations for the 25 m.p.h. zone.

RESOLUTION NO. 86-63 - RESOLUTION SETTING POLICY FOR SEWER LINE EXTENSIONS FOR THE CITY OF ASHEVILLE TO NON-CONTIGUOUS ANNEXATION AREAS

9. Consideration was given to a resolution setting policy for sewer line extensions for the City of Asheville to non-contiguous annexation areas.

Mayor Bissette said the City Council established an interim policy concerning water and sewer line extensions for the City of

Mayor Bissette said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Councilman Michalove moved for the adoption of Ordinance No. 1581. This motion was seconded by Councilman Boland.

On a roll call vote of 7-0, Ordinance No. 1581 passed on first reading.

Councilman Michalove moved to suspend the rules and proceed to the second reading of Ordinance No. 1581. This motion was seconded by Councilman Price and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1581 passed on second reading.

Councilman Michalove moved to suspend the rules and proceed to the third and final reading of Ordinance No. 1581. This motion was seconded by Councilman Price and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1581 passed on third and final reading.

Complete text of Ordinance No. 1581 will be found in Ordinance Book No. 11 at pages 9 and 10.

ORDINANCE NO. 1582 - BUDGET ORDINANCE AMENDMENT FOR REIMBURSEMENT OF COMMUNITY DEVELOPMENT FUNDS

6. Consideration was given to a budget ordinance amendment for reimbursement of Community Development funds.

Mayor Bissette said this budget ordinance amendment is to reimburse Community Development Funds for overexpenditure of 20% limit for planning and administration for the year ended June 30, 1985. Fiscal impact for the General Fund is a negative impact of $51,684.00. These funds will be available for appropriation for Community Development eligible activities.

Mayor Bissette said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Vice-Mayor Frank moved for the adoption of Ordinance No. 1582. This motion was seconded by Councilman Tisdale.

On a roll call vote of 7-0, Ordinance No. 1582 passed on first and final reading.

Complete text of Ordinance No. 1582 will be found in Ordinance Book No. 11 at page 11.

RESOLUTION NO. 86-64 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE ON BEHALF OF THE CITY OF ASHEVILLE AN AGREEMENT BY AND BETWEEN THE CITY OF ASHEVILLE AND THE SKYLAND VOLUNTEER FIRE DEPARTMENT TO PROVIDE FIRE PROTECTION SERVICE TO THE NEWLY ANNEXED NON-CONTIGUOUS AREA LOCATED NEAR THE INTERSECTION OF LONG SHOALS ROAD AND LEDBETTER ROAD (COACHLITE RESTAURANT)

11. Consideration was given to a resolution authorizing the Mayor to execute on behalf of the City of Asheville an agreement by and between the City of Asheville and the Skyland Volunteer Fire Department to provide fire protection service to the newly annexed non-contiguous area located near the intersection of Long Shoals Road and Ledbetter Road (Coachlite Restaurant).

Mayor Bissette said the City has annexed a non-contiguous area near the intersection of Long Shoals Road and Ledbetter Road. This resolution will authorize the Mayor to execute an agreement by and between the City of Asheville and Skyland Volunteer Fire Department to provide fire protection service to this area.

Mayor Bissette said members of Council were previously furnished copies of the resolution and it would not be read in its entirety unless there was a specific request to do so.

Upon motion of Councilman Tisdale, seconded by Councilman Price, Resolution No. 86-64 was unanimously adopted.

Complete text of Resolution No. 86-64 will be found in Resolution Book No. 16 at page 13.

RESOLUTION NO. 86-65 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT BY AND BETWEEN THE CITY OF ASHEVILLE AND ASHEVILLE-BUNCOMBE TECHNICAL COLLEGE

12. Consideration was given to a resolution authorizing the Mayor to execute an agreement by and between the City of Asheville and Asheville-Buncombe Technical College.

Mayor Bissette said Asheville-Buncombe Technical College desires to construct a pedestrian bridge over Victoria Road. Victoria Road is a part of the street system for the City of Asheville with attendant air rights. The City wishes to allow Asheville-Buncombe Technical College to encroach upon the air rights attendant to Victoria Road. This resolution will authorize the Mayor to execute an agreement by and between the City of Asheville and Asheville-Buncombe Technical College.

Mayor Bissette said members of Council were previously furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Vice-Mayor Frank, seconded by Councilman Michalove, Resolution No. 86-65 was unanimously adopted.

Complete text of Resolution No. 86-65 will be found in Resolution Book No. 16 at page 14.

Asheville in Resolution No. 69-1, adopted on November 20, 1969. Some changes have occurred in the actual practice of the Department of Water and Sewer Services with regard to extension of sewer lines. While the City has an unwritten policy with regard to extension of sewer lines to non-contiguous annexation areas, it is now desirable to have such a policy in writing.

Mayor Bissette said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

The Corporation Counsel noted that in the policy that if a property owner requests sewer service it would be at the property owner's expense.

Upon motion of Councilman Boland, seconded by Councilman Tisdale, Resolution No. 86-63 was unanimously adopted.

Complete text of Resolution No. 86-63 will be found in Resolution Book No. 16 at pages 11 and 12.

ORDINANCE NO. 1578 - AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE CITY OF ASHEVILLE, NORTH CAROLINA, BY ANNEXING A NON-CONTIGUOUS AREA NEAR THE INTERSECTION OF LONG SHOALS ROAD AND LEDBETTER ROAD, PURSUANT TO THE REQUEST OF THE PROPERTY OWNER (COACHLITE RESTAURANT)

10. Consideration was given to the third reading of Ordinance No. 1578, an ordinance to extend the corporate limits of the City of Asheville, North Carolina, by annexing a non-contiguous area near the intersection of Long Shoals Road and Ledbetter Road, pursuant to the request of the property owner (Coachlite Restaurant).

Mayor Bissette said the City of Asheville has been petitioned under N. C. Gen. Stat. sec 160A-58.1, as amended, to annex a non-contiguous area near the intersection of Long Shoals Road and Ledbetter Road. The City Clerk has been directed to investigate the sufficiency of the petition. The City Clerk has certified the sufficiency of the petition and a public hearing was held on April 8, 1986. This ordinance passed on first reading at the April 8, 1986 meeting and on second reading at the April 15, 1986 meeting.

Mayor Bissette said this ordinance was previously read on first and second reading and would not be reread in its entirety unless there was a specific request to do so.

On a roll call vote of 7-0, Ordinance No. 1578 passed on third and final reading.

Complete text of Ordinance No. 1578 will be found in Ordinance Book No. 11 at pages 3, 4, and 5.

RESOLUTION NO. 86-68 - RESOLUTION AUTHORIZING THE SALE BY THE COUNTY OF BUNCOMBE OF TAX LOT IDENTIFIED AS WARD 4, SHEET 2, LOT 121

16. Consideration was given to a resolution authorizing the sale by the County of Buncombe of Tax Lot identifed as Ward 4, Sheet 2, Lot 121.

Mayor Bissette said the City of Asheville and the County of Buncombe entered into an agreement November 5, 1984 to set forth the responsibilities of the City and County with regard to prior responsibilities of the Buncombe County Board of Tax Supervision. Pursuant to Resolution No. 85-224, the City approved of the sale by the County of Buncombe certain lots. Other lots titled in the name of the Buncombe County Board of Tax Supervision and located within the City limits of the City of Asheville were retained for the City's use, pursuant to recommendation of City staff and approval of the City Council. It has been determined that Tax Lot identified as Ward 4, Sheet 2, Lot 121 does not need to be retained and can be released by the City for sale. This resolution does hereby authorize and approve of the sale by the County of Buncombe of this tax lot. Revenue to the City is $2,400.00. 50% of the current tax valuation of the lot is $4,800.00

Mayor Bissette said members of Council were previously furnished copies of the resolution and it would not be read in its entirety unless there was a specific request to do so.

Upon motion of Vice-Mayor Frank, seconded by Councilman Boland, Resolution No. 86-68 was unanimously adopted.

Complete text of Resolution No. 86-68 will be found in Resolution Book No. 16 at page 17 and 18.

RESOLUTION NO. 86-69 - RESOLUTION APPOINTING MEMBER TO THE BOARD OF ADJUSTMENT UNDER ORDINANCE NO. 322 AS AMENDED (APPOINTMENT OF HAL F. STARNES)

17. Consideration was given to a resolution appointing Hal F. Starnes as a member of the Board of Adjustment.

Mayor Bissette said this resolution will appoint Hal F. Starnes to serve an unexpired term, term expiring January 21, 1988.

Mayor Bissette said members of Council were previously furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Vice-Mayor Frank, seconded by Councilman Price, Resolution No. 86-69 was unanimously adopted.

Complete text of Resolution No. 86-69 will be found in Resolution Book No. 16 at page 19.

RESOLUTION NO. 86-66 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A DRAINAGE EASEMENT FOR STATE PROJECT 9.5130201 (MCDOWELL STREET WIDENING PROJECT)

13. Consideration was given to a resolution authorizing the Mayor to execute a drainage easement for State Project 9.5130201 (McDowell Street Widening Project).

Mayor Bissette said the North Carolina Department of Transportation desires to construct and maintain a drainage facility through and across City-owned property. The drainage facility is required in conjunction with the McDowell Street Widening Project. This project will improve traffic safety and flow for the citizens. This resolution will authorize the Mayor to execute the Drainage Easement Agreement.

Mayor Bissette said members of Council were previously furnished copies of the resolution and it would not be read in its entirety unless there was a specific request to do so.

Upon motion of Vice-Mayor Frank, seconded by Councilman Price, Resolution No. 86-66 was unanimously adopted.

Complete text of Resolution No. 86-66 will be found in Resolution Book No. 16 at page 15.

RESOLUTION NO. 86-67 - RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN THE NECESSARY CONTRACTS FOR THE LEASE OF A COMPUTER LINE ADAPTER FOR THE CITY OF ASHEVILLE DEPARTMENT OF FINANCE, DATA PROCESSING DIVISION

15. Consideration was given to a resolution authorizing the City Manager to sign the necessary contracts for the lease of a computer line adapter for the City of Asheville Department of Finance, Data Processing Division.

Mayor Bissette said this resolution will authorize the City Manager to enter into a one year lease contract with Burroughs Corporation to provide one (1) asychronous direct connect line adapter to be installed on the Criminal Justice Information System computer. The monthly lease cost will be $90.00, inclusive of maintenance services. A one-time installation cost of $160.00 will also be incurred. Lease of line adapter for one year, $1,080.00; one time installation cost of $160.00 - Total cost - $1,240.00

Mayor Bissette said members of Council were previously furnished copies of the resolution and it would not be read in its entirety unless there was a specific request to do so.

Upon motion of Councilman Tisdale, seconded by Councilman Price, Resolution No. 86-67 was unanimously adopted.

Complete text of Resolution No. 86-67 will be found in Resolution Book No. 16 at page 16.

Disposal Parcels 133, 140, 147, 148, 156, 165, and 167 are located in the East End/Valley Street Area and are residential lot sales for single family structures under the Incentive Housing Program.

Disposal Parcels 143 and 166 of the East End/Valley Street Area are to be developed with single family homes for resale. The eventual purchasers of the completed homes will be able to obtain the Incentive Housing Subsidy.

Councilman Michalove moved to approve the sale of the disposal parcels as recommended by the Housing Authority. This motion was seconded by Vice-Mayor Frank and carried unanimously.

COUNCILMAN BRATTON - COMMENTS RELATIVE TO GLEN FALLS ROAD BRIDGE

Upon inquiry of Councilman Bratton, the City Manager said bids had been received for the Glen Falls Road Bridge project.

CLAIMS - FAYE REDMON (WATER)

The City Manager presented a claim received from Faye Redmond.

Mayor Bissette referred the claim to the Corporation Counsel for investigation and recommendation.

ADJOURNMENT

Upon motion of Councilman Tisdale, seconded by Councilman Michalove, the meeting adjourned at 5:15 p.m.

J. Bissette
Mayor

William F. McCarthy
City Clerk

RESOLUTION NO. 86-70 - RESOLUTION APPOINTING MEMBER TO THE ASHEVILLE-BUNCOMBE CRIME STOPPERS COMMITTEE (C.M. "MIKE" GEHRING)

18. Consideration was given to a resolution appointing C.M. "Mike" Gehring as a member of the Asheville-Buncombe Crime Stoppers Committee.

Mayor Bissette said this resolution will appoint C. M. "Mike" Gehring to serve the unexpired term of Douglas Blizard, term expiring June 10, 1987.

Mayor Bissette said members of Council were previously furnished copies of the resolution and it would not be read in its entirety unless there was a specific request to do so.

Upon motion of Councilman Price, seconded by Councilman Boland, Resolution No. 86-70 was unanimously adopted.

Complete text of Resolution No. 86-70 will be found in Resolution Book No. 16 at page 20.

SALE OF DISPOSAL PARCELS 133, 140, 143, 147, 148, 156, 165, 166, 167, AND 96B.3 IN THE EAST RIVERSIDE URBAN RENEWAL PROJECT AND THE EAST END/VALLEY STREET COMMUNITY IMPROVEMENT PROJECT

19. Consideration was given to a motion approving the sale of Disposal Parcels 133, 140, 143, 147, 148, 156, 165, 166, 167, and 96B.3 in the East Riverside Urban Renewal Project and the East End/Valley Street Community Improvement Project.

Mayor Bissette said the Housing Authority has tentatively accepted the following bids for certain disposal parcels in the East Riverside Urban Renewal Project and the East End/Valley Street Community Improvement Project.

Parcel	Reuse	Price	Bid	Redeveloper
133	Residential	$6,300.00	$6,601.00	Charles & Alice Payton
140	Residential	8,500.00	10,001.00	David & Gwendolyn Jones
143	Residential	7,800.00	8,350.00	R & R Associates, Inc.
147	Residential	7,100.00	7,601.00	Jerome Eubanks & Regina Mosley
148	Residential	6,900.00	7,200.00	Frank & Virginia Sibert
156	Residential	10,300.00	12,300.00	Ogden Z. & Gwendolyn Braxton
165	Residential	7,500.00	7,850.00	Phillip & Ginger Ridley
166	Residential	9,700.00	11,250.00	R & R Associates, Inc.
167	Residential	8,800.00	9,007.00	James & Marion King
96B.3	Light Indrl.	20,300.00	20,300.00	Carolina Converters, Inc.

Parcel 133 is located on Old Pine Street; parcel 140 is located on Hazzard Street; parcel 143 is located on Martin Luther King, Jr. Drive; parcels 147, 148, and 156 are located on Lincoln Street; parcels 165, 166, and 167 are located on Martin Luther King, Jr. Drive and parcel 96B.3 is located on Lyman Street.

PROCLAMATION - MAY 4 - 10, 1986 AS "DISABILITIES AWARENESS WEEK" - MAY 7, 1986 "NATIONAL BARRIERS AWARENESS DAY IN ASHEVILLE"

6. Mayor Bissette read a proclamation proclaiming May 4 - 10, 1986, as "Disabilities Awareness Week" and May 7 as "National Barriers Awareness Day in Asheville".

Mayor Bissette presented the proclamation to Donna Cator, Vice Chairman of the Disabilities Awareness Week Committee.

RESOLUTION NO. 86-71 - RESOLUTION APPOINTING PRICE WATERHOUSE AS AUDITORS FOR FISCAL YEAR ENDING JUNE 30, 1986

7. Consideration was given to a resolution appointing Price Waterhouse as auditors for fiscal year ending June 30, 1986.

Mayor Bissette said the City of Asheville appointed Price Waterhouse as its auditors for the fiscal years ending June 30, 1984 and 1985, on the basis of a proposal of services for a three year period commencing with the fiscal year ended June 30, 1984. Price Waterhouse has satisfactorily performed their duties for the fiscal years ended June 30, 1984 and 1985. The City hereby names the accounting firm of Price Waterhouse as its auditor for the fiscal year ending June 30, 1986, and also authorizes the Mayor to execute all documents. The annual audit by independent auditors is required by N. C. State statutes. The funds for these services have been appropriated and the proposed fee will not exceed $29,100.00.

Mayor Bissette said members of Council were previously furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Boland, seconded by Councilman Michalove, Resolution No. 86-71 was unanimously adopted.

Complete text of Resolution No. 86-71 will be found in Resolution Book No. 16 at page 21.

RESOLUTION NO. 86-72 - RESOLUTION AUTHORIZING THE EXECUTION OF A LEASE AGREEMENT WITH THE ASHEVILLE HOUSING AUTHORITY FOR CITY PARKING LOT #21

8. Consideration was given to a resolution authorizing the execution of a lease agreement with the Asheville Housing Authority for City Parking Lot #21.

Mayor Bissette said the property formerly leased from T. C. Smith Company, located on South Lexington Avenue, is now owned by the Asheville Housing Authority. The Housing Authority is interested in continuing the lease of this property with the City at a rate of $1.00 per year. This resolution will authorize the Mayor to execute a Lease Agreement with the Asheville Housing Authority for this parking lot.

The City Manager said this action would have a positive fiscal impact on the budget in the amount of $3,400.00.

Mayor Bissette said members of Council were previously furnished copies of the resolution and it would not be read in its entirety.

Tuesday - April 29, 1986 - 4:00 p.m.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Councilmen Wilhelmina Bratton, Walter R. Boland; Kenneth M. Michalove, and George M. Tisdale; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Vice-Mayor Mary Lloyd Frank and Councilman Norma T. Price.

INVOCATION

The invocation was given by Mayor Louis Bissette.

APPROVAL OF THE MINUTES - APRIL 22, 1986 MEETING

1. Consideration was given to the approval of the minutes of the April 22, 1986 meeting.

Mayor Bissette announced the approval of the minutes as submitted.

PROCLAMATION - MAY 1 - 7, 1986 - "RESPECT FOR LAW WEEK"

2. Mayor Bissette read a proclamation proclaiming May 1 - 7, 1986 as "Respect for Law Week".

Mayor Bissette presented the proclamation to Officer Logan with the Optimist Club.

PROCLAMATION - MAY 2, 1986 - "LAW DAY USA"

3. Mayor Bissette read a proclamation proclaiming May 2nd as "Law Day USA".

Mayor Bissette presented the proclamation to David Gantt, Attorney.

Mr. Gantt said on May 2nd, attorneys would be available in the Law Library to provide free legal service to individuals requesting assistance. He said this would be called "Free Day".

PROCLAMATION - MONTH OF MAY, 1986 - "BICYCLE MONTH"

4. Mayor Bissette read a proclamation proclaiming the month of May as "Bicycle Month".

Mayor Bissette asked that a copy of the proclamation be forwarded to Claudia Nix, member of the Youth Service Action Group.

PROCLAMATION - MAY 4 - 10, 1986 AS "EXTENSION HOMEMAKERS WEEK"

5. Mayor Bissette read a proclamation proclaiming May 4, 1986 as "Extension Homemakers Week".

Mayor Bissette presented the proclamation to Mary Jo Drake, with the Extension Homemakers Assocation.

certain public improvements in the project. This resolution will authorize the Mayor to execute an amendment to the Memorandum of Understanding.

Mayor Bissette also noted that this amendment would not change the Wall Street Project in any way. He said this amendment would divide the Memorandum of Understanding into two phases, and allow for the commencement of phase I immediately. He said this amendment would also change the expiration date for the Memorandum of Understanding from April 30, 1986 to June 30, 1986.

Mayor Bissette said members of Council were previously furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Bratton, seconded by Councilman Michalove, Resolution No. 86-74 was adopted on a voice vote of 4-1, with Councilman Tisdale voting "no".

Councilman Tisdale said his negative vote had nothing to do with the developer for the Wall Street area, however, he voted against the initial Memorandum of Understanding and voted against the amendment because he had reservations about the financing of the project.

Complete text of Resolution No. 86-74 will be found in Resolution Book No. 16 at page 24.

RESOLUTION NO. 86-75 - RESOLUTION REGARDING SELECTION OF A BOND COUNSEL

11. Consideration was given to a resolution regarding the selection of a Bond Counsel.

Mayor Bissette said Articles 4, 5 and 7 of Chapter 159 of the General Statutes of North Carolina authorize North Carolina local governments to issue bonded debt and sets forth procedures in authorizing and issuing bonds. The North Carolina Local Government Commission must approve all North Carolina local government bond sales. The North Carolina Local Government Commission instructions state that employment of bond counsel is necessary for the appropriate issuance of bonds. There is no fiscal impact effect on the operating budget. Bond Counsel fees will be paid from the capital project(s) funded by any bond issue. Sale of bonds, which requires the employment of bond counsel, will provide funds to positively impact the community by improving community physical assets.

Mayor Bissette said the selection of a Bond Counsel is the first step in the process for preparing for a bond issue to be put before the citizens of the City of Asheville, if Council so desires. He said, at the present time, no decisions have been made by Council as to what would be included in the bond issue or the amount of the bonds.

The City Manager said after an extensive research, it would be his recommendation to select the firm of Smith, Helms, Mullis, and Moore, a North Carolina firm from Greensboro.

Mayor Bissette said members of Council were previously furnished copies of the resolution and it would not be read in its entirety unless there was a specific request to do so.

Upon motion of Councilman Tisdale, seconded by Councilman Boland, Resolution No. 86-72 was unanimously adopted.

Complete text of Resolution No. 86-72 will be found in Resolution Book No. 16 at page 22.

RESOLUTION NO. 86-73 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE ON BEHALF OF THE CITY OF ASHEVILLE A CONTRACT AND ANY CHANGE ORDERS WITHIN THE BUDGETED AMOUNT WITH BLUE RIDGE STRUCTURE COMPANY FOR THE PROJECT KNOWN AS GLEN FALLS ROAD BRIDGE REPLACEMENT PROJECT

9. Consideration was given to a resolution authorizing the Mayor to execute on behalf of the City of Asheville a contract and any change order within the budgeted amount with Blue Ridge Structure Company for the project known as Glen Falls Road Bridge Replacement Project.

Mayor Bissette said Glen Falls Road Bridge is located upon a City System street and is in need of replacement due to its age and present condition. This bridge is included in the Federal Aid Off-System Bridge Replacement Program. Bridge replacement and design plans have been prepared and approved by City, State and Federal officials. Low bidder for the project is Blue Ridge Structure Company. This resolution will authorize the Mayor to execute a contract and any change order within the budgeted amount for this project. Total contact amount is $73,240.70.

Upon inquiry of Councilman Tisdale, the City Manager said the City of Asheville will be reimbursed 80% of the contract amount from the state from the Bridge Replacement Program.

Mayor Bissette noted that the construction period for the replacement project would be 180 days. He said traffic would be closed on Glen Falls Road Bridge during construction.

Mayor Bissette said members of Council were previously furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Bratton, seconded by Councilman Michalove, Resolution No. 86-73 was unanimously adopted.

Complete text of Resolution No. 86-73 will be found in Resolution Book No. 16 at page 23.

RESOLUTION NO. 86-74 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE ON BEHALF OF THE CITY OF ASHEVILLE AN AMENDMENT TO THE MEMORANDUM OF UNDERSTANDING BY AND BETWEEN SUNBELT HISTORIC PROPERTIES LIMITED PARTNERSHIP AND THE CITY OF ASHEVILLE

10. Consideration was given to a resolution authorizing the Mayor to execute on behalf of the City of Asheville an amendment to the Memorandum of Understanding by and between Sunbelt Historic Properties Limited Partnership and the City of Asheville.

Mayor Bissette said the City of Asheville and Sunbelt Historic Properties Limited Partnership entered into a Memorandum of Understanding dated December 10, 1985, setting forth the responsibilities of each party with regard to a redevelopment project for the Wall Street area. The parties now desire to amend that Agreement with regard to the City's funding of

Complete text of Resolution No. 86-77 will be found in Resolution Book No. 16 at page 27 and 28.

COMMENTS RELATIVE TO INTERGOVERNMENTAL COMMITTEE OF CITY OF ASHEVILLE AND COUNTY OF BUNCOMBE

Mayor Bissette said Council had recently reenacted the Intergovernmental Committee of the City of Asheville and County of Buncombe in order that the committee could discuss matters of mutual concern to both the City and County. He said it was hopeful that the committee could meet on a monthly basis. He said the committee members would be Councilman Boland, Vice-Mayor Frank, Councilman Tisdale, Commissioner Montgomery, and Commissioner Sobol.

COMMENT BY COUNCILMAN BRATTON RELATIVE TO ESTHER ROWE

Councilman Bratton noted that Esther Rowe, J. J.'s mother on "Good Times" would be making public appearances in the City of Asheville for the next few days.

RESOLUTION NO. 86-78 - RESOLUTION AUTHORIZING THE SALE BY THE COUNTY OF BUNCOMBE OF TAX LOT IDENTIFIED AS WARD 1, SHEET 1, LOT 282 (VELVET STREET)

Consideration was given to a resolution authorizing the sale by the County of Buncombe of Tax Lot identified as Ward 1, Sheet 1, Lot 282 on Velvet Street.

Mayor Bissette read the resolution stating that the City of Asheville and the County of Buncombe entered into an agreement dated November 5, 1984 to set forth the responsibilities of the City and County with regard to prior responsibilities of the Buncombe County Board of Tax Supervision. He said pursuant to that agreement the County is authorized to sale and convey all property heretofore titled in the name of the Buncombe County Board of Tax Supervision to such person or party and for such price on such terms as the Board of County Commissioners shall deem for the best interests of the City of Asheville, subject to the prior approval of the City. He said pursuant to Resolution No. 85-224 the City approved the sale by the County of a certain number of lots at a price not less than the current tax valuation. He said other lots titled in the name of the Buncombe County Tax Supervision and located within the city limits of the City of Asheville were retained for the City's use pursuant to recommendation of City staff and approval of the City Council. He said it has now been determined that the tax lot identified as Ward 1, Sheet 1, Lot 282 does not need to be retained and it can be released by the City.

Upon motion of Councilman Boland, seconded by Councilman Tisdale, Resolution No. 86-78 was unanimously adopted.

Complete text of Resolution No. 86-78 will be found in Resolution Book No. 16 at page 29 and 30.

SCHEDULING PUBLIC HEARING - FINAL SUBDIVISION PLAT FOR EMMA AIRPORT ASSOCIATES, INC.

Councilman Michalove moved to schedule a public hearing relative to the final subdivision plat for Emma Airport Associates, Inc. for May 13, 1986. This motion was seconded by Councilman Tisdale and carried unanimously.

Upon motion of Councilman Boland, seconded by Councilman Bratton, Resolution No. 86-75 was unanimously adopted.

Complete text of Resolution No. 86-75 will be found in Resolution Book No. 16 at page 25.

RESOLUTION NO. 86-76 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN EMPLOYMENT AGREEMENT BY AND BETWEEN THE CITY OF ASHEVILLE AND DOUGLAS O. BEAN

12. Consideration was given to a resolution authorizing the Mayor to execute an employment agreement by and between the City of Asheville and Douglas O. Bean.

Mayor Bissette said this agreement sets forth the terms and conditions of the employment of Douglas O. Bean as City Manager. He said the agreement does not set forth a specific time period.

Mayor Bissette said members of Council were previously furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Tisdale, seconded by Councilman Boland, Resolution No. 86-76 was unanimously adopted.

Complete text of Resolution No. 86-76 will be found in Resolution Book No. 16 at page 26.

RESOLUTION NO. 86-77 - RESOLUTION ESTABLISHING THE ASHEVILLE CABLEVISION COMMISSION

13. Consideration was given to a resolution establishing the Asheville Cablevision Commission and appointing members to said commission.

Mayor Bissette said the Asheville City Council desires to establish an Asheville Cablevision Commission. This Commission will include a representative of the City Council, the General Manager of Asheville Cablevision, the Chairman of the Asheville-Buncombe Cable Television Committee, and two (2) additional representatives from the community. The responsibility of the Commission will be to monitor Asheville Cablevision's compliance with the terms of its franchise agreement and to provide regular communications between Asheville Cablevision and the City of Asheville. This resolution also will appoint members to The Asheville Cablevision Commission.

Mayor Bissette said this resolution would appoint Councilman George Tisdale as a representative of City Council; Joe Haight, as General Manager of Asheville Cablevision; W. P. "Pete" Winslow; Chairman Representative of the Asheville-Buncombe Cable Television Committee; Minnie E. Jones, community representative; and Pearce Weaver as a community representative to serve at the pleasure of Council. He said this resolution would also specify that the representative of City Council shall serve as Chairman of the Asheville Cablevision Commission.

Mayor Bissette said members of Council were previously furnished copies of the resolution and it would not be read in its entirety unless there was a specific request to do so.

Upon motion of Councilman Michalove, seconded by Councilman Boland, Resolution No. 86-77 was unanimously adopted.

Tuesday - May 6, 1986 - 4:00 p.m.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Mary Lloyd Frank; Councilmen Kenneth M. Michalove, Norma T. Price, and George M. Tisdale; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Councilmen Walter R. Boland and Wilhelmina Bratton.

INVOCATION

The invocation was given by Councilman George Tisdale.

APPROVAL OF THE MINUTES - APRIL 29, 1986 MEETING

1. Consideration was given to the approval of the minutes of the April 29, 1986, meeting.

Mayor Bissette announced the approval of the minutes as submitted.

RESOLUTION NO. 86-79 - RESOLUTION OF APPRECIATION TO BOB WILLIAMS (NEWS REPORTER FOR WISE - KISS-FM RADIO STATION)

3. Mayor Bissette read a resolution of appreciation to Bob Williams, who has served the citizens of Asheville as a new reporter for WISE-KISS FM Radio Station for the past three years. He said Bob Williams would be leaving the City of Asheville on May 9, 1986, to advance in his career by accepting a position of news director for a radio station in Augusta, Georgia. He said this resolution expresses the sincere appreciation on behalf of the residents of Asheville for his dedication to the City and its citizens throughout his tenure with WISE-KISS FM and his service to the City.

Upon motion of Vice-Mayor Frank, seconded by Councilman Price, Resolution No. 86-79 was unanimously adopted.

Mayor Bissette presented the resolution to Bob Williams.

Complete text of Resolution No. 86-79 will be found in Resolution Book No. 16 at page 31.

PROCLAMATION - WEEK OF MAY 3, 1986, AS "HERITAGE WEEK"

2. Mayor Bissette read a proclamation proclaiming the week of May 3, 1986, as "Heritage Week."

Mayor Bissette presented the proclamation to Sybil Bowers, Director of Historic Resources Commission, and Marge Turcot, President of the Preservation Society of Asheville and Buncombe County.

CLAIMS - DORIS H. MACE (STREET) - JUDY SHAFT (WATER) - W. RUSTY ERICKSON (PARKS) - SANDRA OWENBY (STREET) - DIANNA NORDSTROM (WATER)

The City Manager presented claims received from Doris H. Mace, Judy Shaft, W. Rusty Erickson, Sandra Owenby, and Dianna Nordstrom.

Mayor Bissette referred the claims to the Corporation Counsel for investigation and recommendation.

JEANNIE CALLOWAY - SISTER CITY PROGRAM - SOVIET UNION

Jeannie Calloway appeared before Council stating that the City of Asheville had been paired with the City of Kislovodsk in the Soviet Union. She said approximately fifteen people from Asheville with various backgrounds and interests have made travel arrangements to visit this sister city during the month of May. She said they would be taking gifts to be given out in Kislovodsk and the individuals traveling have given over $500 "out of pocket expenses" for these gifts. She requested that the City of Asheville provide an allocation of funds in the amount of $500 for additional gifts from the Folk Art Center such as quilts and tapes, etc. to take to the people in Kislovodsk.

Mayor Bissette asked that Mrs. Calloway request the funding from the City Manager, and Council would give her an answer next week relative to her request for funding.

BILL BASS - PROPERTY MANAGER FOR DEERWOOD CONDOMINIUMS REQUESTS

Bill Bass, with Raintree Properties, said his company is property manager for Deerwood Condominiums on Hendersonville Road. He said the condominiums are now in the City of Asheville. In the way of background information, Mr. Bass said Deerwood Condominiums owns their own lighting system, has no problems with police or fire protection, does not have City garbage pick-up (pays Skyland Refuse Collection $5.15 per month per unit for garbage pick-up), the roads in the condominium area are privately maintained and there has been very little expenditures by the City for the condominium project. He said the City of Asheville receives approximately $500 per unit per year in taxes. He requested, on behalf of the property owners at Deerwood Condominiums, assistance in maintaining the street lighting system in the amount of $116 per month and assistance in garbage pick-up in the amount of $7 per month per unit. He said the total being requested would be $413 per month or $4,956 per year.

Mayor Bissette told Mr. Bass that Council would look into their request and report back to them in the next couple of weeks.

RALPH BISHOP OBTAINING CITY RECORDS - LOTTERY SALES

Ralph Bishop again spoke to members of Council relative to his right to obtain certain City records, and the lottery sales in the City of Asheville. He also requested a copy of the employment agreement with Douglas O. Bean as City Manager.

ADJOURNMENT

Upon motion of Councilman Tisdale, seconded by Councilman Boland, the meeting adjourned at 5:15 p.m.

Mayor

City Clerk

RESOLUTION NO. 86-81 - RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF ASHEVILLE TO EXECUTE EASEMENT IN FAVOR OF THE CAROLINA POWER & LIGHT COMPANY (PROPERTY LOCATED AT THE ASHEVILLE REGIONAL AIRPORT)

7. Consideration was given to a resolution authorizing the Mayor of the City of Asheville to execute an easement in favor of the Carolina Power & Light Company for property located at the Asheville Regional Airport.

Mayor Bissette said Carolina Power & Light Company has requested that the City of Asheville execute a right-of-way easement on property belonging to the City of Asheville located at the Asheville Regional Airport for the purpose of updating an existing electric power line as shown on Carolina Power & Light Company Drawing No. RW-D-5979 dated August 31, 1979, to serve FAA MALSR; Skyland Volunteer Fire Department and Asheville Airport Fire Training Center.

Mayor Bissette said members of Council were previously furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Tisdale, seconded by Councilman Price, Resolution No. 86-81 was unanimously adopted.

Complete text of Resolution No. 86-81 will be found in Resolution Book No. 16 at page 33.

BIDS - TRAILER-MOUNTED ASPHALT MAINTENANCE SPRAY TANK/DISTRIBUTOR

8. Consideration was given to bids received for a trailer-mounted asphalt maintenance spray tank/distributor.

Mayor Bissette said sealed bids were invited to furnish one (1) trailer-mounted asphalt maintenance spray tank/distributor for the Public Works Department, Street Division. Three (3) bids were received with A. E. Finley and Associates, Inc., Charlotte, North Carolina submitting the lowest bid for an E. D. Etnyre Model MU-10-TRL. This bid fully meets specifications and all other requirements of the bid requests. There are sufficient funds in the Street Division budget to cover this cost ($15,083.00) - account code 50-427-074.

The City Manager presented the bid summary sheet stating that bids were received from A. E. Finley and Associates in the amount of $15,083.00; Arrow Equipment, Inc., in the amount of $17,542.90; and North Carolina Equipment Company in the amount of $25,280.00.

Vice-Mayor Frank moved to accept the bid of A. E. Finley and Associates in the amount of $15,083.00 for the trailer-mounted asphalt maintenance spray tank/distributor. This motion was seconded by Councilman Tisdale and carried unanimously.

PROCLAMATION - MAY 6-11, 1986 - "DAYS OF REMEMBRANCE OF THE VICTIMS OF THE HOLOCAUST"

4. Mayor Bissette read a proclamation proclaiming May 6-11, 1986, as "Days of Remembrance of the Victims of the Holocaust."

Mayor Bissette presented the proclamation to Rabbi Bluming with the Beth Ha-Tephila Temple.

PROCLAMATION - MAY 10, 1986 - BRAD DAUGHERTY DAY

5. Mayor Bissette read a proclamation extending best wishes to Brad Daugherty on May 10, 1986, as the Town of Black Mountain honors him as an outstanding athlete on the University of North Carolina Tar Heels basketball team from 1982-1986.

Mayor Bissette presented the proclamation to Doug Stafford, Alderman for the Town of Black Mountain.

RESOLUTION NO. 86-80 - RESOLUTION APPROVING THE BY-LAWS OF THE ASHEVILLE FAIR HOUSING COMMISSION

6. Consideration was given to a resolution approving the by-laws of the Asheville Fair Housing Commission.

Mayor Bissette said the Asheville City Council created the Asheville Fair Housing Commission by adoption of Ordinance No. 1539 on October 15, 1985. This ordinance requires that prior to performing any duties, the Commission shall adopt by-laws governing the Commission's operating procedures. The Asheville Fair Housing Commission adopted by-laws on April 16, 1986. City Council has reviewed the by-laws and desires to approve them.

Mayor Bissette said members of Council were previously furnished copies of the resolution and the by-laws, and they would not be read in their entirety unless there was a specific request to do so.

Corporation Counsel Slawter said during the Pre-Council meeting, Council members had requested that the by-laws be amended to include that the Chairman shall vote on all matters before the Commission; that the Secretary of the Commission keep minutes of all meetings and proceedings; that to the extent not provided for in the by-laws, rules of procedure for conduct of the meetings shall be provided by Roberts' Rules of Order as Revised; and that the rules of the Commission can be amended at any time by City Council or by an affirmative vote of the majority of the members, subject to the approval of City Council.

Upon inquiry of Councilman Tisdale, Mayor Bissette said the Department of Housing and Urban Development will fund the Fair Housing Commission at a fixed amount for two years, then on a case-by-case basis.

Upon motion of Councilman Price, seconded by Councilman Michalove, Resolution No. 86-80 was unanimously adopted.

Complete text of Resolution No. 86-80 will be found in Resolution Book No. 16 at page 32.

Upon motion of Councilman Michalove, seconded by Councilman Price, the Consent Agenda was unanimously approved.

CLAIMS - RICHARD GUTHRIE (POLICE)

The City Manager presented a claim received from Richard Guthrie.

Mayor Bissette referred the claim to the Corporation Counsel for investigation and recommendation.

LEAGUE OF WOMEN VOTERS

Leah Karpin, with the League of Women Voters, encouraged all members of Council and citizens to vote in the election today, and to vote against the nuclear waste depository being in Western North Carolina.

RALPH BISHOP - LOTTERY SALES - ASHEVILLE POLICE DEPARTMENT

Ralph Bishop spoke to members of Council relative to the lottery sales in the City of Asheville and the Asheville Police Department.

ADJOURNMENT

Upon motion of Councilman Tisdale, seconded by Vice-Mayor Frank, the meeting adjourned at 4:50 p.m.

MAYOR

CITY CLERK

APPROVAL OF THE CONSENT AGENDA

9. Consideration was given to a motion approving the Consent Agenda.

Mayor Bissette said the following items are of a routine nature, and they have been previously reviewed by the members of the City Council. Therefore, by unanimous vote to approve these items, the City Council may, pursuant to the procedures established in Ordinance No. 1008, adopt all of the items with one motion without the full reading and/or separate motion adopting each individual item. Upon the request of a citizen, a member of the City Council, and/or a member of the City staff, any single item scheduled for approval on the consent agenda may be considered separately.

A. Schedule a public hearing for a site plan of the proposed Pinecliff Condominiums to be located on State Road 2243 for May 27, 1986.

HIGHLIGHTS: The Asheville Planning and Zoning Commission, at a meeting held April 9, 1986, reviewed the site plan of the proposed Pinecliff Condominiums to be located on State Road 2243. The site plan was prepared by Larry Traber, Architect, for Piney Mountain Associates, Inc., Developer, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of Phase I (Units A thru J and the recreational facilities), subject to: 1) satisfactory easement for developer to tie into sewer line; 2) satisfactory easement to protect City's 16" water line; and 3) compliance with the Erosion Control Ordinance.

B. Schedule a public hearing for the site plan of the proposed apartment complex to be located on St. Dunstan's Road for May 27, 1986.

HIGHLIGHTS: The Asheville Planning and Zoning Commission at a meeting held April 9, 1986, reviewed the site plan of the proposed apartment complex to be located on St. Dunstan's Road. The site plan was prepared by Gray Engineering, Greenville, South Carolina, for Wade Cooper, Developer, and submitted in accordance with the Group Development section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend denial of the site plan to City Council.

C. Schedule a public hearing for the site plan of a proposed addition to Peppertree Vacation Club on the grounds of the Great Smokies Hilton for May 27, 1986.

HIGHLIGHTS: The Asheville Planning and Zoning Commission at a meeting held April 9, 1986, reviewed the site plan of a proposed addition to Peppertree Vacation Club on the grounds of the Great Smokies Hilton. The site plan was submitted by Mr. C. Wayne Kinser, Owner, Great Smokies Hilton, in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of the site plan subject to compliance with the Erosion Control Ordinance.

PROCLAMATION - MAY 18 - 24, 1986 - "PUBLIC WORKS WEEK".

4. Mayor Bissette read a proclamation proclaiming May 18 - 24, 1986 as " Public Works Week".

Clark Brown, Director of Public Works, accepted the proclamation from Mayor Bissette.

PROCLAMATION - MAY, 1986 - "MOTORCYCLE AWARENESS MONTH"

5. Mayor Bissette read a proclamation proclaiming the Month of May, 1986 as "Motorcycle Awareness Month".

Mayor Bissette presented the proclamation to Gary Aiken, President of the Buncombe County Chapter for Concerned Bikers Association.

PUBLIC HEARING - FINAL SUBDIVISION PLAT - EMMA AIRPORT ASSOCIATES, INC.

6. A public hearing was held relative to a final subdivision plat for the Emma Airport Associates, Inc.

Mayor Bissette said the Asheville Planning and Zoning Commission at a meeting held April 9, 1986, approved the preliminary plat of an industrial subdivision to be located on Emma Road at the old Emma Airport. This final plat was prepared by Ashley Engineering for Mr. Bob Kinser, Emma Airport Associates, Developer, and submitted in accordance with Ordinance No. 424, as amended.

Mayor Bissette opened the public hearing at 4:20 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said the Planning and Zoning Board has reviewed and recommended approval of the final plat for the Emma Airport Associates, Inc. He said the site is located on the old Emma Airport property and is zoned Light Industrial. He said the proposed development meets all the requirements of the subdivision ordinance. He said the project would consist of eleven lots to be used for light industries.

Shelly Shelton, 295 Brickyard Road, objected to projects in the area, stating that two access entrances has been constructed on Brickyard Road. She said at the beginning of the construction the City and County had said there were no plans or approvals for entrances on Brickyard Road. She said Brickyard Road is a small narrow county road, and the entrances have been made in a very dangerous curve. She said it is her understanding that the main entrance for the project will be used by tractor trailers.

Mayor Bissette explained to Mrs. Shelton that the approval of the final subdivision plat for the Emma Airport Associates, Inc. does not include any entrances off Brickyard Road. He said it was his understanding that another proposed development would be considered by the Planning and Zoning Commission on May 14, 1986 by the Kinco Corporation and that development would come before Council at a later date.

Tuesday - May 13, 1986 - 4:00 p.m.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Mary Lloyd Frank; Councilmen Wilhelmina Bratton, Walter R. Boland; Kenneth M. Michalove, Norma T. Price, and George M. Tisdale; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: None

BELE CHERE KICK-OFF

Ray Kisiah, Director of Parks, Recreation and Maintenance Facilities introduced Jim Daniels, Chairman of the Board of Directors for Bele Chere 1986.

Jim Daniels presented a band for members of Council, and invited all members of Council to attend Bele Chere 1986. He outlined the events that would take place during Bele Chere 1986.

INVOCATION

The invocation was given by Councilman Walter Boland.

APPROVAL OF THE MINUTES - MAY 6, 1986 MEETING

1. Consideration was given to the approval of the minutes of the May 6, 1986 meeting.

Mayor Bissette announced the approval of the minutes as submitted.

PROCLAMATION - MAY 18 - 25, 1986 - "SMALL BUSINESS WEEK"

2. Mayor Bissette read a proclamation proclaiming May 18 - 25, 1986 as "Small Business Week".

Mayor Bissette presented the proclamation to Bob Kendrick with the Small Business Council of the Asheville Area Chamber of Commerce.

PROCLAMATION - MAY 11 - 17, 1986 - "LAW ENFORCEMENT OFFICERS WEEK".

3. Mayor Bissette read a proclamation proclaiming May 11 - 17, 1986 as "Law Enforcement Officers Week".

Mayor Bissette presented the proclamation to Major Pipitone and Dr. Howard Shockley, Chaplain for the Asheville Police Department.

Dr. Shockley invited members of Council to attend a Law Enforcement Officers Memorial Service on Thursday, May 15, 1986, at 12:30 p.m. in the City-County Plaza honoring the men who lost their lives as law enforcement officers.

Complete text of Resolution No. 86-83 will be found in Resolution Book No. 16 at Page 35.

APPROVAL OF SIGN PERMIT - SHONEY'S - 102 TUNNEL ROAD

9. Consideration was given to a motion approving a sign permit for an identification sign at 102 Tunnel Road.

Mayor Bissette said Gary Lowe has requested a sign permit to erect an identification sign at 102 Tunnel Road advertising "Shoney's". This sign requires approval of City Council pursuant to the zoning ordinance in that the sign will be situated closer than 600' of a limited access highway.

Verl Emrick, Director of Planning, presented a diagram for the proposed sign. He said the sign is an off-premises advertising sign containing 320 square feet. He showed the proposed location of the sign on the property. He said the Planning Staff would recommend denial of the approval of this sign permit due to the location of the sign being located close to a motel which would limit the ability of the Fire Department to fight a fire in the motel. He said if the sign was moved forward from the proposed location, it would limit visibility.

Mack Robinson, with Naegele Outdoor Advertising Company spoke in support of approval of the sign permit. He said one side of the sign would be an identification sign for Shoney's and the other side would be used for another business in that area. He said the trees in the area would obscure the sign from being visible from I-240. He said the sign was designed to meet the needs of the businesses on Tunnel Road.

Upon inquiry of Councilman Tisdale, Mr. Robinson said Naegele Outdoor Advertising Company would have no objection to moving the sign closer to the building and away from the property line.

Upon inquiry of Councilman Tisdale, Mr. Emrick said the Planning staff would still recommend denial even if the sign is moved forward due to the limited visibility.

Councilman Price and Councilman Boland indicated that they felt the sign would be another billboard in the area, and they would be opposed to additional clutter on Tunnel Road of billboard signs.

After discussion, Councilman Tisdale moved to postpone action relative to approving the sign permit at 102 Tunnel Road for one week until a formal report could be received from the Asheville Fire Department relative to safety. This motion was seconded by Councilman Michalove and carried on a voice vote of 4-3 with Councilman Price, Councilman Boland, and Vice-Mayor Frank voting "no".

SCHEDULING OF PUBLIC HEARING - COMMUNITY DEVELOPMENT STATEMENT OF OBJECTIVES

10. Consideration was given to a motion to schedule a public hearing on Community Development Statement of Objectives for May 27, 1986.

Mayor Bissette said this public hearing will be to obtain citizen views on 1986-87 Community Development program objectives and is a legal requirement in obtaining Community Development Block Grant Funds.

Mike Keleher expressed appreciation to the Planning Staff and Council for their cooperation in his proposed development.

Mayor Bissette closed the public hearing at 4:30 p.m.

Councilman Michalove moved to approve the final subdivision plat for the Emma Airport Associates, Inc. to be located on Emma Road at the old Emma Airport. This motion was seconded by Councilman Boland and carried unanimously.

RESOLUTION NO. 86-82 - RESOLUTION AUTHORIZING THE SALE BY THE COUNTY OF BUNCOMBE OF TAX LOTS IDENTIFIED AS WARD 1, SHEET 1, LOTS 53, 54, 55 and 56

7. Consideration was given to a resolution authorizing the sale by the County of Buncombe of tax lots identified as Ward 1, Sheet 1, Lots 53, 54, 55 and 56.

Mayor Bissette said the City of Asheville and the County of Buncombe entered into an Agreement dated November 5, 1984, to set forth the responsibilities of the City and County with regard to prior responsibilities of the Buncombe County Board of Tax Supervision. Pursuant to that Agreement, the County is authorized to sell and convey all property heretofore titled in the name of the Buncombe County Board of Tax Supervision to such person or party and for such price on such terms as the Board of County Commissioners shall deem for the best interest of the City of Asheville, subject to the prior approval of the City. This resolution would authorize and approve the sale by the County of Buncombe of tax lots identified as Ward 1, Sheet 1, Lots 53, 54, 55 and 56 at a price not less than the current tax valuation. He said revenue to the City would be approximately 50% of the current tax valuations of the lots sold. Tax valuation for Tax Lot 53 - $1,000; Tax Lot 54 - $100; Tax Lot 55 - $700; and Tax Lot 56 - $700.

Mayor Bissette said members of Council were previously furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Tisdale, seconded by Councilman Price, Resolution No. 86-82 was unanimously adopted.

Complete text of Resolution No. 86-82 will be found in Resolution Book No. 16 at page 34.

RESOLUTION NO. 86-83 - RESOLUTION APPOINTING A MEMBER TO THE ASHEVILLE FAIR HOUSING COMMISSION (EDWARD C. HAY, JR.)

8. Consideration was given to a resolution appointing Edward C. Hay, Jr. to the Asheville Fair Housing Commission.

Mayor Bissette said this resolution will appoint Edward C. Hay, Jr. to the Asheville Fair Housing Commission to fill the unexpired term of Tom West, term expiring February 11, 1989.

Mayor Bissette said members of Council were previously furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Price, seconded by Councilman Boland, Resolution No. 86-83 was unanimously adopted.

ADJOURNMENT

Upon motion of Councilman Tisdale, seconded by Vice-Mayor Frank, the meeting adjourned at 5:15 p.m.

CITY CLERK

MAYOR

Councilman Michalove moved to schedule a public hearing on the Community Development Statement of Objectives for May 27, 1986. This motion was seconded by Councilman Price and carried unanimously.

REQUEST BY ASHEVILLE-BUNCOMBE COUNTY YOUTH COUNCIL FOR FUNDING

11. J. D. Jackson, member of the Adult Advisory Board for the Asheville-Buncombe County Youth Council requested a contribution of $15,000 in joint funding with the County of Buncombe in financing a youth center at the Allen Center.

Nancy Hensley, Chairperson for the Asheville-Buncombe Youth Council, next year, spoke in support of the funding for the youth center stating that a lot of research work has been done on this project, and the teenagers in the area need a center to go to. She said the teenagers in the area do not have a place to go to after 9:00 p.m.

Sandra Harrison, Director of the Asheville-Buncombe Youth Council spoke in support of the funding stating that the youth center would be for all youth in the City and County and not just for the Youth Council members.

After discussion relative to the limited use of facilities in Asheville and Buncombe County for the youth, Mayor Bissette said Council would consider their request and would be back in touch with them relative to the funding requested.

REPORT BY COUNCILMAN TISDALE - ASHEVILLE CABLEVISION COMMISSION MEETING

12. Councilman Tisdale informed members of Council and the public that the Asheville Cablevision Commission had its first meeting on Monday, May 12, 1986, with all members attending. He said it was the concensus of the Commission to meet the 2nd Monday of each month and the news media was, and will be, notified of all meetings. He said the next meeting for the Asheville Cablevision Commission is scheduled for June 9, 1986, at the Asheville Cablevision office on Charlotte Street for a tour of the facility.

CLAIMS - GEORGE THOMPSON (SEWER) - ROOSEVELT BROADWATER (WATER) - BETSY STILES (SEWER) - LAND-OF-SKY BEAUTY SHOP (SEWER) - MR. & MRS. C. WREN (WATER)

13. The City Manager presented claims received from George Thompson, Roosevelt Broadwater, Betsy Stiles, Land-of-Sky Beauty Shop and Mr. & Mrs. C. Wren.

Mayor Bissette referred the claims to the Corporation Counsel for investigation and recommendation.

RALPH BISHOP - COMMENTS RELATIVE TO LOTTERY SALES IN THE CITY OF ASHEVILLE, SIGNS ON TUNNEL ROAD, AND FUNDING OF A CONSULTANT FOR THE DOWNTOWN PARKING STUDY

14. Ralph Bishop spoke to members of Council relative to the lottery sales in the City of Asheville, signs being located on Tunnel Road, and his concern that monies had been provided for a consultant for a downtown parking study.

Councilman Price moved to suspend the rules and proceed to the second reading of Ordinance No. 1584. This motion was seconded by Councilman Michalove and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1584 passed on second reading.

Councilman Michalove moved to suspend the rules and proceed to the third and final reading of Ordinance No. 1584. This motion was seconded by Councilman Price and carried unanimously

On a roll call vote of 7-0, Ordinance No. 1584 passed on third and final reading.

Complete text of Ordinance No. 1584 will be found in Ordinance Book No. 11 at page 13-16.

ORDINANCE NO. 1585 - AN ORDINANCE AMENDING CITY OF ASHEVILLE ORDINANCE NO. 1195, AS CODIFIED AS ARTICLE 13 OF CHAPTER 30 OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE

3. Consideration was given to an ordinance amending City of Asheville Ordinance No. 1195, as codified as Article 13 of Chapter 30 of the Code of Ordinances of the City of Asheville.

Mayor Bissette said the City of Asheville desires to be designated as a Certified Local Government for historic preservation purposes. The North Carolina State Department of Cultural Resources has determined that certain amendments should be made to City of Asheville Ordinance No. 1195 creating the Montford Historic District, in order that the City of Asheville may be designated as a Certified Local Government.

Vice-Mayor Frank moved for the adoption of Ordinance No. 1585. This motion was seconded by Councilman Boland.

On a roll call vote of 7-0, Ordinance No. 1585 passed on first reading.

Councilman Michalove moved to suspend the rules and proceed to the second reading of Ordinance No. 1585. This motion was seconded by Councilman Price and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1585 passed on second reading.

Councilman Michalove moved to suspend the rules and proceed to the third and final reading of Ordinance No. 1585. This motion was seconded by Councilman Price and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1585 passed on third and final reading.

Complete text of Ordinance No. 1585 will be found in Ordinance Book No. 11 at page 17 and 18.

Tuesday - May 20, 1986 - 4:00 p.m.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Mary Lloyd Frank; Councilmen Wilhelmina Bratton, Walter R. Boland; Kenneth M. Michalove, Norma T. Price, and George M. Tisdale; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: None

INVOCATION

The invocation was given by Councilman Norma Price.

APPROVAL OF THE MINUTES - MAY 13, 1986 MEETING

1. Consideration was given to the approval of the minutes of the May 13, 1986, meeting.

Mayor Bissette announced the approval of the minutes as submitted.

ORDINANCE NO. 1584 - AN ORDINANCE AMENDING ORDINANCE NO. 1109, CODIFIED AS CHAPTER 14A OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE

2. Consideration was given to an ordinance amending Ordinance No. 1109, Codified as Chapter 14A of the Code of Ordinances of the City of Asheville.

Mayor Bissette said the City of Asheville desires to be designated as a Certified Local Government for historic preservation purposes. The North Carolina State Department of Cultural Resources has determined that certain amendments should be made to City of Asheville Ordinance No. 1109, which creates the Historic Resources Commission of Asheville and Buncombe County in order that the City of Asheville may be designated as a Certified Local Government.

Verl Emrick, Director of Planning, said the amendments to the ordinance are minor and primarily include language to provide for archeological surveys when needed.

Sybil Bowers, with the Historic Resources Commission, said this amendment is also part of the City's application to be designated as a certified local government which will allow the City to apply for grants.

Councilman Boland moved for the adoption of Ordinance No. 1584. This motion was seconded by Councilman Price.

On a roll call vote of 7-0, Ordinance No. 1584 passed on first reading.

RESOLUTION NO. 86-84 - RESOLUTION ESTABLISHING A POLICY FOR FUNDING OUTSIDE AGENCIES

5. Consideration was given to a resolution establishing a policy for funding outside agencies.

Mayor Bissette said the City Council wishes to establish a policy for contribution to funding of outside agencies. Requests for contributions to the funding of outside agencies shall not be considered where the scope of the benefit derived from the funding extends beyond the corporate limits of the City of Asheville including but not limited to the items of County responsibility identified in the Water Agreement dated October 29, 1981. The outside agencies specifically referred to in the Water Agreement shall not be funded by the City beyond the scope of the funding provided for in said agreement.

Mayor Bissette also noted that each year the City Council receives requests from many agencies for funding. He said, in his opinion, Council should establish a policy for such funding since tax payers in the City of Asheville were funding many agencies twice, as a City tax payer and a County tax payer.

Councilman Michalove noted that although he agreed with the concept of eliminating double taxation, he would prefer that Council consider various agency request on a year-to-year basis.

Mayor Bissette noted that this policy would not cover agencies that provide contract services.

Mayor Bissette said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Tisdale, seconded by Councilman Price, Resolution No. 86-84 was unanimously adopted.

Complete text of Resolution No. 86-84 will be found in Resolution Book No. 16 at page 36.

RESOLUTION NO. 86-85 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE ON BEHALF OF THE CITY OF ASHEVILLE AN AGREEMENT BY AND BETWEEN THE CITY OF ASHEVILLE AND THE HOUSING AUTHORITY OF THE CITY OF ASHEVILLE TERMINATING A LEASE

6. Consideration was given to a resolution authorizing the Mayor to execute on behalf of the City of Asheville an agreement by and between the City of Asheville and the Housing Authority of the City of Asheville terminating a lease.

Mayor Bissette said the property subject to this lease agreement is part of the Pack Plaza Redevelopment Project. In the City's agreement with the developer, the City agreed to cancel the unexpired term of the lease at

ORDINANCE NO. 1553 - AN ORDINANCE DESIGNATING A BUILDING AND PROPERTY KNOWN AS "THE MANOR" AT 265 CHARLOTTE STREET IN ASHEVILLE, NORTH CAROLINA, CURRENTLY OWNED BY TRANSCO FINANCIAL GROUP, LTD., AS HISTORIC PROPERTY

4. Consideration was given to the second reading of Ordinance No. 1553, an ordinance designating a building and property known as "The Manor" at 265 Charlotte Street in Asheville, North Carolina, currently owned by Transco Financial Group, Ltd., as historic property.

Mayor Bissette said "The Manor" was completed in 1899 as an "English Country Inn In America", and is a rare surviving example of the picturesque resort development so important to the history of the North Carolina mountains. The Historic Resources Commission of Asheville and Buncombe County has demonstrated the historic significance of the building, and the Division of Archives and History of North Carolina Department of Cultural Resources has endorsed the findings of the Commission. This ordinance passed on first reading on November 26, 1985. At the December 3, 1985 Council meeting, Council postponed the second reading of this ordinance until February 4, 1986 due to a pending process of completing foreclosure proceedings against the property. At the February 4, 1986 meeting, council continued the second reading until February 11, 1986. At the February 11, 1986, meeting the second reading was postponed until May 20, 1986.

Mayor Bissette said this ordinance was previously read on first reading and would not be reread in its entirety unless there was a specific request to do so.

Jim Coman, with the Historic Resources Commission spoke in support of adoption of the ordinance. He said he had been in contact with Bill Thomas, representative for Mr. Elman, present owner of the Manor. He said the historic Resources Commission is willing to compromise on the adoption of the ordinance and to delete the interior portion for historic designation. He said he felt postponing of the readings of the ordinance is just a delaying action on the part of the present owner. He said Mr. Elman does not have an interest in restoring the building for historic purposes. He said the Historic Resources Commission is concerned about demolition of the building, and the adoption of this ordinance would delay demolition for at least 180 days. He outlined what portions of the Manor Inn would be included in the historical designation.

After discussion, Councilman Michalove moved that Council consider the second reading of Ordinance No. 1553 today and that the legal staff and the Historic Resources Commission investigate the feasibility, and prepare appropriate language, to amend the ordinance to delete the interior portion of the Manor from historical designation prior to the third reading of the ordinance. This motion was seconded by Councilman Tisdale and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1553 passed on second reading.

Mayor Bissette said the proposed amendment to Ordinance No. 1553 should be forwarded to the property owner's attorney, Jerry Crowe.

Mack Robinson, with Naegele Outdoor Advertising Company, spoke in support of the sign permit, stating that outdoor advertising is primarily for small businesses. He said Naegele Outdoor Advertising Company has taken down five billboard faces in the City of Asheville during the past two months. He said restaurants are competitive and they need the additional signage.

Councilman Bratton said that over the past couple of years the City of Asheville has spent alot of money on economic development. She said she felt businesses need their advertising space.

Councilman Price, speaking in opposition to the approval of the sign permit, said she felt our community is for tourists and that the billboard would be additional clutter on Tunnel Road.

Councilman Boland said he agreed with Councilman Price. He said he felt our economy is based on tourism, and if we continue to clutter the City of Asheville with billboards, tourism will decrease.

Councilman Tisdale spoke in support of the approval of the sign permit, stating that if the sign was proposed for across the street, approval from City Council would not be necessary. He said the sign in question only requires approval from City Council because it will be located closer than 600 feet of a limited access highway.

Vice-Mayor Frank said she felt there were too many signs on Tunnel Road.

Councilman Michalove spoke in support of the sign permit, stating that the City of Asheville needs businesses.

A discussion was held relative to strengthening the current sign ordinance.

Councilman Michalove moved to approve the sign permit requested at 102 Tunnel Road. This motion was seconded by Councilman Bratton and carried on a voice vote of 4-2, with Councilman Michalove, Councilman Bratton, Mayor Bissette, and Councilman Tisdale voting "aye" and Vice-Mayor Frank, Councilman Price, and Councilman Boland voting "no".

Leah Karpen spoke in opposition to the sign permit being approved.

Jane Bingham also spoke in opposition to the sign permit.

Frank Parton spoke in opposition to approval of the sign permit.

Councilman Michalove requested that the City Attorney review the current ordinance and the legality of amending the ordinance, stating that Council would not approve any off-premises signs that are within 600 feet of a limited access highway. He requested that a report be given back to Council on this matter within two weeks.

the time the property was transferred to the developer. The property was transferred to the developer on May 8, 1986, and the lease will be terminated effective May 8, 1986. This resolution will authorize the Mayor to execute an agreement terminating the lease.

Mayor Bissette said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Vice-Mayor Frank, seconded by Councilman Michalove, Resolution No. 86-85 was unanimously adopted.

Complete text of Resolution No. 86-85 will be found in Resolution Book No. 16 at page 37-38.

APPROVAL OF SIGN PERMIT - 102 TUNNEL ROAD

7. Consideration was given to a motion approving a sign permit for an identification sign at 102 Tunnel Road.

Mayor Bissette said Gary Lowe has requested a sign permit to erect an identification sign at 102 Tunnel Road advertising "Shoney's". This sign requires approval of City Council pursuant to the zoning ordinance in that the sign will be situated closer than 600' of a limited access highway. This was continued from the May 13, 1986 meeting.

The City Manager said he had received a report from the Fire Department stating that if the proposed sign is located 10 feet from the property line, there would be no problem with the Asheville Fire Department servicing that area.

Verl Emrick, Director of Planning, said this sign would add 320 square feet to the total signage allowable at this location. He said with the addition of this sign, the total signage for Shoney's would be 470 square feet. He said this, within itself, would not be a conflict with the Sign Ordinance, however, any additional signage requested would have to be approved by the Board Adjustments.

Harold Johnson of 165 Cherokee Road strongly objected to any more billboard signs anywhere in the City of Asheville.

Susan Mayer, with Quality Forward, said she felt Council should stick to enforcing the Sign Ordinance, and not add clutter to Tunnel Road. She said advertising of various businesses could be done by logos on the interstate rather than by billboards.

Ralph Bishop spoke for the approval of the sign permit.

Doug Swain, representing a group of concerned citizens, spoke in opposition to the approval of the sign permit stating that Council should be careful in their consideration of sign permits and should stop the number of billboards going up in the City of Asheville.

David Quinn, also spoke in opposition to the sign permit stating that, in his opinion, the City of Asheville did not need another billboard on Tunnel Road.

RALPH BISHOP - LOTTERY SALES IN THE CITY OF ASHEVILLE

Ralph Bishop spoke to members of Council relative to the lottery sales in the City of Asheville.

ADJOURNMENT

Upon motion of Councilman Boland, seconded by Councilman Tisdale, the meeting adjourned at 5:35 p.m.

MAYOR

CITY CLERK

RECONSIDERATION OF MOTION RELATIVE TO EMMA AIRPORT ASSOCIATES PROJECT - EXCUSING MAYOR FROM VOTE

8. Mayor Bissette requested that the motion adopted on May 13, 1986, relative to approval of the Emma Airport Associates Project be reopened for consideration.

Councilman Tisdale moved that the motion relative to approval of the Emma Airport Associates Project be reopened for reconsideration. This motion was seconded by Councilman Michalove and carried unanimously.

Mayor Bissette requested that he be excused from participation and vote on this matter due to his law firm providing services for the developer.

Councilman Tisdale moved to excuse Mayor Bissette from participation and vote on the project for Emma Airport Associates. This motion was seconded by Councilman Michalove and carried unanimouusly.

Councilman Price moved to approve the site plan for the Emma Airport Associates. This motion was seconded by Councilman Boland and carried unanimously.

SCHEDULING PUBLIC HEARING - UMTA OPERATING ASSISTANCE GRANT FUNDS

9. Councilman Boland moved to schedule a public hearing relative to Urban Mass Transportation Act Operating Assistance Grant Funding for June 24, 1986. This motion was seconded by Councilman Price and carried unanimously.

CLAIMS - KIM MEASE (WATER) - C. N. PENLAND (WATER) - MARGIE BINGHAM (WATER) - RONALD MILLER (SANITATION)

The City Manager presented claims received from Kim Mease, C. N. Penland, Margie Bingham and Ronald Miller.

Mayor Bissette referred the claims to the Corporation Counsel for investigation and recommendation.

COMMENTS BY NOLA KNUCKLES - MAGNOLIA AND FLINT STREET

10. Nola Knuckles of 222 Flint Street complained that the streets, sidewalks, and water breaks were a problem in the Flint Street and Montford Avenue area.

Mayor Bissette explained that specific problems in that area should be reported to the City Manager and taken care of immediately. He also explained to Mrs. Knuckles that the City Council members are proposing a bond referendum to make major improvements in the City of Asheville which would include streets and sidewalks.

Mrs. Knuckles also requested a stop light at Magnolia and Flint Streets. She said that the playground in that area which attracts children warrants a stop light at this location.

The City Clerk presented the Notice to the Public, setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, by the use of a map, outlined the area of the proposed project. He said the Planning and Zoning Commission had approved Phase 1 of the proposed project which would consist of 36 units. He said at present there is no recorded easement for the water line and the project does not have access to sewer facilities. He said it is his understanding that the developer has several options relative to obtaining access to sewer lines. He said the developers are negotiating an easement with an adjoining property owner to pump the sewer over a hill to drop into a 20" line going into a 36" line but to his knowledge the easement has not been executed.

Mike Robinson, representing the developer, spoke in support of the project outlining the details of the proposed project. He said the developer proposes to leave as many trees as possible. He requested approval of the project contingent upon the developer obtaining an easement for the sewer facilities.

Jane Hildebran, of 338 Chunn's Cove Road, questioned whether or not the sewer line right-of-way would be from Haw Creek Road through the property line on which the project is proposed.

Mr. Robinson responded to Mrs. Hildebran that the developer is securing a 13' right-of-way for the underground sewerline.

Mayor Bissette closed the public hearing at 4:22 p.m.

After discussion, Councilman Tisdale moved to approve the site plan of the proposed Pinecliff Condominiums subject to 1) satisfactory easement for developer to tie into sewer line; 2) satisfactory easement to protect City's 16" waterline; and 3) compliance with the Erosion Control Ordinance. This motion was seconded by Councilman Bratton and carried unanimously.

PUBLIC HEARING - SITE PLAN - APARTMENT COMPLEX ON ST. DUNSTAN'S ROAD

4. A public hearing was held relative to the site plan of the proposed apartment complex to be located on St. Dunstan's Road.

Mayor Bissette said the Asheville Planning and Zoning Commission at a meeting held April 9, 1986, reviewed the site plan of the proposed apartment complex to be located on St. Dunstan's Road. The site plan was prepared by Gray Engineering, Greenville, South Carolina, for Wade Cooper, Developer, and submitted in accordance with the Group Development section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend denial of the site plan to City Council.

Mayor Bissette opened the public hearing at 4:25 p.m.

The City Clerk presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said the proposed project would consist of 6 units on an one-half acre. He said the Planning and Zoning Board was concerned about the access to the property, and had received a petition on April 8th from George Saenger, attorney for adjoining property owners.

Tuesday - May 27, 1986 - 4:00 p.m.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Mary Lloyd Frank; Councilmen Wilhelmina Bratton, Walter R. Boland; Kenneth M. Michalove, Norma T. Price, and George M. Tisdale; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: None

INVOCATION

Vice-Mayor Frank introduced Reverend J. Walter Hills, Pastor with the Rock Hill Missionary Baptist Church, who gave the invocation.

APPROVAL OF THE MINUTES - MAY 20, 1986 MEETING

1. Consideration was given to the approval of the minutes of the May 20, 1986, meeting.

Mayor Bissette announced the approval of the minutes as submitted.

PROCLAMATION - MONTH OF JUNE 1986 - "RAPE PREVENTION MONTH"

2. Mayor Bissette read a proclamation proclaiming the month of June, 1986 as "Rape Prevention Month".

Mayor Bissette presented the proclamation to Cassandra Pavone, Director of the Rape Crisis Center of Asheville.

PROCLAMATION - WEEK BEGINNING JUNE 1, 1986 - "NATIONAL SAFE BOATING WEEK"

2a. Mayor Bissette proclaimed the week beginning June 1, 1986 as "National Safe Boating Week".

PUBLIC HEARING - SITE PLAN - PINECLIFF CONDOMINIUMS

3. A public hearing was held relative to a site plan of the proposed Pinecliff Condominiums to be located on State Road 2243.

Mayor Bissette said the Asheville Planning and Zoning Commission at a meeting held April 9, 1986 reviewed the site plan of the proposed Pinecliff Condominiums to be located on State Road 2243. The site plan was prepared by Larry Traber, Architect, for Piney Mountain Associates, Inc., Developer, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of Phase I (Units A thru J and the recreational facilities), subject to: 1) satisfactory easement for developer to tie into sewer line; 2) satisfactory easement to protect City's 16" water line; and 3) compliance with the Erosion Control Ordinance.

Mayor Bissette opened the public hearing at 4:09 p.m.

Vice-Mayor Frank said the Asheville Planning and Zoning Commission at a meeting held April 9, 1986, reviewed the site plan of a proposed addition to Peppertree Vacation Club on the grounds of the Great Smokies Hilton. The site plan was submitted by Mr. C. Wayne Kinser, Owner, Great Smokies Hilton, in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of the site plan subject to compliance with the Erosion Control Ordinance.

Vice-Mayor Frank opened the public hearing at 5:04 p.m.

Verl Emrick, Director of Planning, said the proposed addition would be two additional buildings consisting of eight units. He said all utility connections would be connected to existing utilities. He said all staff and departments have reviewed the plan and recommended approval.

Vice-Mayor Frank closed the public hearing at 5:07 p.m.

Councilman Bratton moved for the approval of the site plan of the proposed addition to Peppertree Vacation Club on the grounds of the Great Smokies Hilton. This motion was seconded by Councilman Boland and carried unanimously.

PUBLIC HEARING - COMMUNITY DEVELOPMENT STATEMENT OF OBJECTIVES

6. A public hearing was held relative to the Community Development's Statement of Objectives and projected use of funds for 1986-87.

Mayor Bissette said this public hearing will be to obtain citizen views on 1986-87 Community Development program objectives and is a legal requirement in obtaining Community Development Block Grant Funds.

Mayor Bissette opened the public hearing at 5:08 p.m.

The City Clerk presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Marvin Vierra, with the Community Development Department, said the City anticipates receiving $890,000 in Community Development Block Grant Funds for fiscal year 1986-87. He outlined the proposed final statement of Community Development objectives and projected use of the funds.

Tony Clark-Sayer, Chairman of the Montford Planning Committee, thanked members of Council for the past support and funding for the Montford area and commended Mr. Vierra for holding hearings in the area relative to the proposed use of the Community Development Block Grant Funds. He requested that the Council proceed cautiously with the use of the Community Development Block Grant Funds requesting that any additional funds that are currently uncommitted and that are in contingency for this year's budget as well as the 1986-87 budget be used for the Montford area. He questioned the use of the Community Development Block Grant Funds for the Rankin Street Parking Garage and also the amount allocated for contingency.

Barry Master, Executive Director of Pisgah Legal Services of 89 Montford Avenue, said he represented the low income and elderly residents in the Montford area. He reiterated comments made by Tony Clark Sayer stating that

George Saenger, attorney representing the adjacent property owners, spoke in opposition to the proposed development stating that this project would be inconsistent with the present neighborhood.

The following individuals spoke in opposition to the proposed project stating that the proposed site is unstable and therefore unsuitable for construction of any type; area residents have experienced unacceptably low level of water pressure and are concerned that this development will compound the problem; the proposed development is not in character with the neighborhood; the proposed site is located at the top of a small wooded cove that served as a buffer strip between St. Dunstan's Road and St. Dunstan's Circle and development of this buffer area would greatly detract from the aesthetics of the community; development and subsequent paving of the proposed site will cause serious erosion problems; the parking lot and associated access roads to the proposed site lie between two dangerous curves on St. Dunstan's Road; and the absence of sidewalks, narrow width of St. Dunstan's Road and the added traffic generated from the proposed development pose a threat to children who play near the site; added traffic on Roebling Circle will aggravate a dust problem that is already severe; and much of the area that has been backfilled has a slope that approachs 40% and it is inconceivable that a 6-family dwelling is being considered on such a steep embankment.

Rick Crawford, 172 St. Dunstan's Road
Linda Crawford, 172 St. Dunstan's Road
Rose Marie Mintern, St. Dunstan's Road
C. L. Lackey, 5 St. Dunstan's Road
Bill Bechtold, 25 St. Dunstan's Circle

Wade Cooper, representing the developer, spoke in support of the proposed project and answered questions from members of Council. He said the project would be built to coordinate with the neighborhood.

Ruel Austin, of 93 St. Dunstan's Circle, also spoke in opposition to the project due to water pressure and children playing in the neighborhood.

Mayor Bissette closed the public hearing at 5:00 p.m.

After discussion, Councilman Price moved to accept the recommendation of the Planning and Zoning Commission to deny the site plan of the proposed apartment complex to be located on St. Dunstan's Road. This motion was seconded by Councilman Bratton and carried unanimously.

PUBLIC HEARING - ADDITION TO PEPPERTREE VACATION CLUB - GREAT SMOKIES HILTON

5. A public hearing was held relative to the site plan of the proposed addition to Peppertree Vacation Club on the grounds of the Great Smokies Hilton.

Mayor Bissette requested that he be excused from participation and vote on this particular project due to his law firm representing the developer.

Councilman Price moved to excuse Mayor Bissette from participation and vote on the issue relative to the proposed addition to Peppertree Vacation Club on the grounds of the Great Smokies Hilton. This motion was seconded by Councilman Tisdale and carried unanimously.

Complete text of Resolution No. 86-86 will be found in Resolution Book No. 16 at page 39.

ORDINANCE NO. 1553 - AN ORDINANCE DESIGNATING A BUILDING AND PROPERTY KNOWN AS "THE MANOR" AT 265 CHARLOTTE STREET IN ASHEVILLE, NORTH CAROLINA, CURRENTLY OWNED BY TRANSCO FINANCIAL GROUP, LIMITED AS HISTORICAL PROPERTY

7. Consideration was given to the third reading of Ordinance No. 1553, an ordinance designating a building and property known as "The Manor" at 265 Charlotte Street in Asheville, North Carolina, currently owned by Transco Financial Group, Limited as historical property.

Mayor Bissette said "The Manor" was completed in 1899 as an "English Country Inn in America", and is a rare surviving example of the picturesque resort development so important to the history of the North Carolina mountains. The Historic Resources Commission of Asheville and Buncombe County has demonstrated the historic significance of the building, and the Division of Archives and History of North Carolina Department of Cultural Resources has endorsed the findings of the Commission. This ordinance passed on first reading on November 26, 1985, and on second reading on March 30, 1986

Mayor Bissette said this ordinance was previously read on first and second reading and would not be re-read in its entirety unless there was a specific request to do so.

Corporation Counsel Slawter said at the request of Council the ordinance had been amended to delete the interior portion of "The Manor" as historic property. He read Section 2 as proposed to be amended stating that the Historic Resources Commission shall have no jurisdiction over the interior arrangement of "The Manor".

Councilman Price moved to amend Ordinance No. 1553, Section 2, to add the sentence "the Commission shall have no jurisdiction over interior arrangement". This motion was seconded by Councilman Michalove and carried unanimously.

Corporation Counsel Slawter said he had received a letter from Jerry Crow, Attorney representing the owner of "The Manor", requesting that the third reading of the ordinance be postponed until the second Tuesday in June. He said the letter assured that neither he nor the prospective purchasers have any intention of razing "The Manor" prior to the third reading date of the ordinance.

Councilman Tisdale moved to postpone the third reading of Ordinance No. 1553 until June 10th as requested by Attorney Jerry Crow. This motion was seconded by Councilman Michalove.

A discussion was held relative to the concern that "The Manor" could be demolished at any time prior to the third reading of this ordinance.

Jim Coleman, with the Historic Resources Commission, requested that Council continue with the third reading of the ordinance at today's meeting because the property owner is going to continue to fight for the property not to be designated as historic property.

the residences in the Montford area will be lost if something is not done to help fund the rehabilitation of these residences. He said the primary purpose of the Community Development Block Grant Funds are for low and moderate income neighborhoods and any monies spent in the Montford area would be well spent.

Jim Cairnes, of 209 Cumberland Avenue, also spoke in support of additional funding from Community Development Block Grant Funds for the Montford area.

Sean Devereax / of Alexander requested that additional funds be earmarked for the Montford area.

Upon inquiry of Council, Marvin Vierra said funding for the Community Development Block Grant is included in the President's budget for fiscal year 1987 at the 1986 level. He said contingency balances are only used by authority of Council. He said all funds are committed except for contingency funds.

Ernie Thurston, of 19 Panola St., member of the Montford Community Club, requested that as much money as possible go into the Montford area.

Councilman Boland said, in his opinion, Council should allot planning time to discuss leveraging of public and private money for the Montford area.

A discussion was held relative to the Montford area residents using the Neighborhood Housing Services.

Councilman Michalove requested that the Montford area residents use organizational input from the Housing Authority before Council acts upon appropriations for the Montford area. He said the Housing Authority and agencies were established by ordinance and state law and should be used. He read the responsibilities of the Housing Authority in the interest of moving ahead in the Montford community. He said he felt a meeting was needed between the Montford Community Club, the Housing Authority, and the City Manager.

Councilman Boland agreed with Councilman Michalove's concept of the use of the Housing Authority for the Montford area. (PARAGRAPH AMENDED 6-3-86 MINUTES)

Councilman Tisdale said he was very much interested in the Montford area since the residences in Montford are not historical but are in terrible condition. (PARAGRAPH AMENDED 6-3-86 MINUTES)

Mayor Bissette closed the public hearing at 6:00 p.m.

RESOLUTION NO. 86-86 - RESOLUTION AUTHORIZING SUBMISSION OF A FINAL STATEMENT OF COMMUNITY DEVELOPMENT OBJECTIVES AND PROJECTED USE OF FUNDS TO THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT FOR COMMUNITY DEVELOPMENT BLOCK GRANT ENTITLEMENT FUNDS - 1986-87

Mayor Bissette said the resolution was previously presented to members of Council and would not be read in its entirety unless there was a specific request to do so.

Upon motion of Vice-Mayor Frank, seconded by Councilman Tisdale, Resolution No. 86-86 was unanimously adopted.

C. Motion to schedule a public hearing for a site plan of Sunset Pointe Condominiums to be located on Town Mountain Road for June 17, 1986.

HIGHLIGHTS: The Asheville Planning and Zoning Commission at a meeting held May 14, 1986, reviewed the site plan of Sunset Pointe Condominiums to be located on Town Mountain Road. The site plan was submitted by Freeman, Wells, and Major, Architects, Greenville, S.C. for W.R. Martin Corporation, Developer, in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of the project subject to: 1) extension of 6" water line 200' north toward existing apartments and addition of one fire hydrant; and 2) compliance with Erosion Control Ordinance.

Upon motion of Councilman Michalove, seconded by Councilman Price, the consent agenda was unanimously approved.

RESOLUTION NO. 86-88 - RESOLUTION RE-APPOINTING MEMBERS TO THE ASHEVILLE AREA CIVIC CENTER COMMISSION (GORDON GREENWOOD - DAVID BROWN - JOE WEBSTER)

Consideration was given to a resolution reappointing David L. Brown, Gordon Greenwood, and Joe L. Webster to the Asheville Area Civic Center Commission to serve a three year term, term expiring June 30, 1989.

Upon motion of Councilman Michalove, seconded by Vice-Mayor Frank, Resolution No. 86-88 was unanimously adopted.

Complete text of Resolution No. 86-88 will be found in Resolution Book No. 16 at page 14.

CLAIMS - GEORGE SIMMONS (PARKS)

The City Manager presented a claim received from George Simmons.

Mayor Bissette referred the claim to the Corporation Counsel for investigation and recommendation.

RALPH BISHOP - LOTTERY SALES IN THE CITY OF ASHEVILLE

Ralph Bishop again spoke to members of Council relative to lottery sales in the City of Asheville.

ADJOURNMENT

Upon motion of Councilman Boland, seconded by Councilman Tisdale, the meeting adjourned at 6:30 p.m.

_____ Mayor

_____ City Clerk

NOTE: THESE MINUTES AMENDED ON 6-3-86 BY INCLUDING THE ATTACHED PRE-COUNCIL MINUTES OF 5-27-86 TO THESE MINUTES. (ATTACHED TO THESE MINUTES)

108 Sondley Parkway

James File, with the Historic Preservation Society, spoke in support of the ordinance. He said the preservation of historic property is consistent with Council's policy to preserve downtown and other areas of the City.

Councilman Michalove moved that Council recess into Executive Session to discuss this matter. This motion was seconded by Vice-Mayor Frank and carried unanimously.

After reconvening, Councilman Tisdale withdrew his motion to postpone the third reading of Ordinance No. 1553 until June 10, 1986 and moved to defer the third reading until June 3, 1986. This motion was seconded by Councilman Michalove and carried unanimously.

APPROVAL OF THE CONSENT AGENDA

8. Consideration of a motion approving the consent agenda.

NOTE: The following items are of a routine nature and they have been previously reviewed by the members of the City Council. Therefore, by unanimous vote to approve these items, the City Council may, pursuant to the procedures established in Ordinance No. 1008, adopt all of the items with one motion without the full reading and/or separate motion adopting each individual item. Upon the request of a citizen, a member of the City Council, and/or a member of the City staff, any single item scheduled for approval on the consent agenda may be considered separately.

Resolution No. 86-87

A. Resolution authorizing the City Manager to sign an agreement for loss prevention services with Poinsett Self-Insurance Sales and Service.

HIGHLIGHTS: The City of Asheville is a self-insured municipal employer for purposes of workers' compensation, pursuant to the Workers' Compensation Act of the State of North Carolina. In order to secure re-insurance for the City's program of workers' compensation as required by law, the City must retain the services of an outside consultant for safety and loss prevention services. This resolution will authorize the City Manager to execute an agreement between the City and Poinsett Self-Insurance Sales and Services.

FISCAL IMPACT: Annual sum of $7,500.00. Budgeted in FY 85-86 budget.

Resolution Book 16 - page 40.

B. Motion to schedule a public hearing relative to the 1986-87 Budget for June 17, 1986.

Vote on Vice-Mayor Frank's motion:
Mayor Bissette, Vice-Mayor Frank, Councilman Bratton, Councilman Price, Councilman Boland - "For"

Councilman Michalove, Councilman Tisdale - "Against"

Councilman Tisdale noted that his negative vote on Vice-Mayor Frank's motion was not against a bond referendum but because he felt a need to put the question before the voters of the City of Asheville on a referendum ballot. He said he felt the citizens of Asheville should decide whether or not a tax increase is needed.

In further discussion, it was the concensus of members of Council to hold the bond referendum in September, 1986. The general split on the ballot would be $3,000,000 for the Arts and Science, and the remainder going for capital improvements in Public Works.

MINUTES
PRE-COUNCIL MEETING - MAY 27, 1986

DEVELOPMENT OF BOND PACKAGE

In discussing a bond referendum for capital improvements, Councilman Michalove moved that Council adopt a $27 million dollar bond issue (noting that this would be a 10 cent tax increase). This motion was seconded by Councilman Boland.

A discussion was held relative to the pros and cons of issuing a bond in the amount of $27 million dollars.

Vote on Councilman Michalove's motion:
Councilman Michalove and Councilman Boland - "For"

Mayor Bissette, Vice-Mayor Frank, Councilman Tisdale, Councilman Price, and Councilman Bratton - "Against"

Councilman Bratton moved that Council adopt a $20 million dollar bond issue (noting that this would be a 7 cent tax increase). This motion was seconded by Vice-Mayor Frank.

In a discussion, Larry Fisher noted that even though the 7 cent tax increase was the amount to amortize the bond and pay the debt service, the question on the ballot would be that the City would levy taxes in an amount sufficient to pay the debt service.

Vote on Councilman Bratton's motion:
Mayor Bissette, Vice-Mayor Frank, Councilman Tisdale, Councilman Bratton, Councilman Price, Councilman Boland - "For"

Councilman Michalove - "Against"

Councilman Michalove said his opposition to Councilman Bratton's motion was not opposing the $20 million dollar bond issue, but because this amount would not be sufficient to cover the needs. He said a $27 million dollar bond issue is needed and would come closer to meeting the needs of the City.

DISCUSSION OF TAX LEVY

In discussing the 1986-87 budget, Vice-Mayor Frank moved that a 7 cent tax increase be included in the 1986-87 operational budget to be earmarked for capital improvements. This motion was seconded by Councilman Bratton.

Councilman Michalove make a substitute motion to amend Vice-Mayor Frank's motion to include a 10 cent tax increase in the 1986-87 operational budget. This motion was seconded by Councilman Boland.

Vote on Councilman Michalove's Substitute Motion:
Councilman Michalove and Councilman Boland - "For"

Mayor Bissette, Vice-Mayor Frank, Councilman Bratton, Councilman Price and Councilman Tisdale - "Against"

PROCLAMATION - JUNE 1-7, 1986 - "MANAGEMENT WEEK"

2. Mayor Bissette read a proclamation proclaiming June 1-7, 1986, as "Management Week".

Mayor Bissette presented the proclamation to Doug Buchanan, President of the National Management Associates of Square D Chapter.

PRESENTATION BY MARCAL PAPER COMPANY - PROGRAM FOR REPLACEMENT OF TREES

3. Ray Kisiah, Director of Parks, Recreation and Public Facilities introduced Nicholas Marcalus, President and Chief Operating Officer with Marcal Paper Company.

Mr. Marcalus thanked members of Council for allowing him to come before Council to kick off the 1986 "Plant A Tree Program" in Asheville. He said the "Plant A Tree Program" grew out of a partnership between Marcal Paper Mills, Inc. and the National Arbor Day Foundation, a non-profit organization dedicated to tree planting and conservation. He said the program provides funds to designated communities for the purpose of planting trees and beautifying urban areas.

Mr. Marcalus said Marcal Paper Mills, Inc. will be sponsoring a free standing newspaper insert on June 8, 1986, in over 50 East Coast markets. He said in this advertisement, consumers will be offered three coupons to save on Marcal paper products. He said for every Marcal coupon redeemed, Marcal will donate 10 cents to establish the "Plant a Tree" fund. He said the funds will be administered by the National Arbor Foundation and distributed to participating cities. He said, in addition, consumers in participating markets will be given the opportunity at their local retailers to receive a discount membership to the National Arbor Day Foundation.

He said Marcal Paper Mills, Inc. would also be producing as a part of the program, a variety of educational materials and public service announcements promoting the benefits of trees and tree planting. He said in distributing the funds, the National Arbor Day Foundation would recognize communities that have received a Tree City USA Award, and who have a commitment to growing trees.

He said since the City of Asheville has been designated a Tree City USA for the past six years, Asheville will be eligible to participate in Marcal's "Plant A Tree Program". He then presented members of Council with red maple seedlings to kick off the 1986 "Plant A Tree Program".

ORDINANCE NO. 1553 - AN ORDINANCE DESIGNATING A BUILDING AND PROPERTY KNOWN AS "THE MANOR" AT 265 CHARLOTTE STREET IN ASHEVILLE, NORTH CAROLINA, CURRENTLY OWNED BY TRANSCO FINANCIAL GROUP, LTD., AS HISTORIC PROPERTY

4. Consideration was given to the third reading of Ordinance No. 1553, an ordinance designating a building and property known as "The Manor" at 265 Charlotte Street in Asheville, North Carolina, currently owned by Transco Financial Group, Ltd., as historic property.

Tuesday - June 3, 1986 - 4:00 p.m.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Mary Lloyd Frank; Councilmen Wilhelmina Bratton, Walter R. Boland; Kenneth M. Michalove, and George M. Tisdale; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Councilman Norma Price

INVOCATION

The invocation was given by Councilman Bratton.

APPROVAL OF THE MINUTES - MAY 27, 1986 MEETING

1. Consideration was given to the approval of the minutes of the May 27, 1986 meeting.

Councilman Tisdale requested that the minutes of the May 27, 1986 meeting be amended to include proceedings in the pre-council meeting on May 27, 1986 relative to the bond issue and tax levy, stating how each member of Council voted on the issues, and that the minutes of the pre-council meeting be attached to the formal minutes of the May 27, 1986 meeting. This motion was seconded by Councilman Bratton and carried unanimously.

Mayor Bissette said during the pre-council meeting, several typographical and other changes were noted in the minutes of the May 27, 1986 meeting.

Councilman Tisdale requested that the minutes of May 27, 1986 reflect the addresses of those individuals speaking during the public hearing relative to the Community Development Statement of Objectives and Projected Use of Funds for 1986-87. He also requested that his paragraph relative to the residences in Montford include his statement that since so many people from the Montford area were in attendance, that he wanted them to know that he would encourage other members of Council to have the current building codes enforced on these properties. He said there are many houses in the area with doors and windows out.

Councilman Boland requested that the minutes be amended to include his statement that one of the options for the Montford Planning Committee would be to meet with the Housing Authority and the City Manager to discuss the feasibility of using the Neighborhood Housing Services.

Mayor Bissette announced the approval of the minutes as amended.

Councilman Michalove said he had gone through the building and felt the building would not limit itself to rehabilitation without a lot of money being spent to restore the building.

Jim Coman, with the Historic Resources Commission, spoke in favor of the ordinance, noting that a lot of inappropriate structures on the building would not be contested by the Historic Resources Commission. He said the Conservation Overlay Ordinance would help to restrict the use of the property, particularly for commercial use. He also reminded members of Council that the owner is not legally required to notify Council that the building is intended for demolition. He said he felt the Historic Resources Commission needed some control over the demolition of the building.

Jim File, of 108 Sondley Parkway Drive, with the Preservation Society of Asheville and Buncombe County, spoke in support of the adoption of the ordinance.

Sybil Bowers, Director of the Historic Resources Commission, said the purpose for the adoption of the ordinance is not to primarily deal with the current owner of the property, but to preserve the property for historic purposes. She said the Historic Resources Commission would be willing to work with any property owner of The Manor. She indicated that if the property is designated as historic property, there would be a reduction in taxes and tax credits would be available.

A discussion was held relative to amending the ordinance to indicate the current owner of the building.

Councilman Tisdale moved to amend Ordinance No. 1553 to strike the words "currently owned by Transco Financial Group, Ltd.,"and insert in lieu thereof" currently owned by Matthew Ellman, as Trustee." This motion was seconded by Councilman Boland and carried unanimously.

After discussion, Councilman Michalove moved to amend Ordinance No. 1553, paragraph 2, to include in the first sentence that "no exterior portion or any building or other structure which was not a part of the original construction or completed before 1945", and that the last sentence in paragraph 2 read "the commission shall have no jurisdiction over interior arrangement, or roads, access, or landscaping. This motion was seconded by Councilman Boland and carried unanimously.

On a roll call vote of 5-1, Ordinance No. 1553 passed on third and final reading with Councilman Tisdale voting "no".

Complete text of Ordinance No. 1553 will be found in Ordinance Book No. 10 at Page 334, 335, and 336.

Mayor Bissette said "The Manor" was completed in 1899 as an "English Country Inn in America", and is a rare surviving example of the picturesque resort development so important to the history of the North Carolina mountains. The Historic Resources Commission of Asheville and Buncombe County has demonstrated the historic significance of the building, and the Division of Archives and History of North Carolina, Department of Cultural Resources has endorsed the findings of the Commission. This ordinance passed on first reading on November 26, 1985, and on second reading on March 20, 1986. At the May 27, 1986 meeting the third reading was postponed until June 3, 1986.

Corporation Counsel Slawter noted that the ordinance had been amended, during the second reading, to exclude the interior portions of the building as historic property.

Jerry Crowe, Attorney, representing Matthew Ellman, Trustee, and present owner of The Manor, requested that Council reconsider the adoption of this ordinance because, in his opinion, the provisions of the ordinance and the provisions of the Historic Conservation Overlay Ordinance, which would also affect this property, would be so restrictive that the property would be unusable. He presented members of Council with background information relative to the purchase of The Manor. He said the current owners intend to remarket The Manor and rehabilitate the building for lodging purposes such as an inn, condominiums, or an apartment complex. He said this proposed ordinance would greatly affect the remarketability of this property. He also noted that the current zoning would practically prohibit any commercial development. He cited several sections of the proposed ordinance and the Conservation Overlay Ordinance, Ordinance No. 1365, indicating the restrictiveness that would be placed upon the property. He said the current owner has no intentions of demolishing the building; however, his client had indicated that if the building is to be demolished, that Council would be notified of their intentions. He said his client objects to the adoption of the ordinance, but if Council desires to continue with a third reading of the ordinance, they would request that the ordinance be amended to exclude any improvements related to the exterior portion of the building, such as fencing, access to the property, exterior stairs, pavement, a free standing rock wall and landscaping. He said if The Manor Inn is to be preserved, Council would have to work with developers.

A discussion was held between Mr. Crowe and members of Council relative to the land that would be involved in the historical designation, fencing in and around the property, and plexiglas covering, that was not a part of the original structure, and the effect the Conservation Overlay Ordinance would have upon the property.

Verl Emrick, Director of Planning, said if this ordinance is adopted, the provisions of the Historic Conservation Overlay Ordinance would be in effect. He explained the procedures outlined in these ordinances.

Mr. Emrick also noted that if the ordinance is adopted, a Certificate of Appropriateness would be required from the Historic Resources Commission for any major improvements that are made to the property. He said minor improvements could be approved by the Historic Resources Commission staff.

Councilman Tisdale commented that he did not feel Council should include a 10-cent tax increase in the 1986-87 budget unless the citizens of Asheville support it with a bond referendum.

Vice-Mayor Frank said she could not support a bond referendum in the amount of $27 million dollars.

Councilman Bratton said she felt the amount of the bonds isn't as important as unity and togetherness with members of Council. She said she felt a bond issue has little chance of passing unless it has the total support of Council. She said she felt it was important for Council to go to the citizens of Asheville together and sell the bond issue.

Mayor Bissette said he agreed with Councilman Michalove and Councilman Boland that the problems are massive, but that he could not support more than a $20 million dollar bond referendum. He said he felt the citizens of Asheville know the needs of the City and would be willing to face up to this but, in his opinion, $20 million dollars is sufficient at this time.

Councilman Tisdale said he felt it was very important to keep the citizens of Asheville well informed as to Council's actions on the bond referendum and the 1986-87 budget.

On a voice vote of 3-3, Councilman Michalove's motion to postpone the vote on the resolution of intent to June 17th failed with Mayor Bissette, Vice-Mayor Frank, and Councilman Tisdale voting "no".

Councilman Bratton moved for the adoption of Resolution No. 86-89. This motion was seconded by Vice-Mayor Frank.

Ralph Bishop spoke to members of Council relative to Section 9 of the City Charter, stating that the citizens of Asheville have a right to be heard by Council, and he felt that the public was excluded from the discussion and the vote taken relative to the bond referendum in the Pre-Council meeting.

On a voice vote of 5-1, Resolution No. 86-89 was adopted with Councilman Michalove voting "no".

Complete text of Resolution No. 86-89 will be found in Resolution Book No. 16 at Page 15.

RESOLUTION NO. 86-90 - RESOLUTION AUTHORIZING SETTLEMENT OF CLAIM OF HARRY E. ADAMS

6. Consideration was given to a resolution authorizing settlement of a claim of Harry E. Adams.

Mayor Bissette said this resolution would authorize the City Attorney to execute a consent judgment resolving matters of dispute between the City of Asheville, Harry E. Adams and the State of North Carolina Department of State Treasurer. He said the City will be required to pay $6,557.04 into the Local Government Employees' Retirement System on behalf

RESOLUTION NO. 86-89 - RESOLUTION AUTHORIZING AND DIRECTING THE CITY CLERK TO PUBLISH A NOTICE OF INTENT TO FILE APPLICATION TO THE LOCAL GOVERNMENT COMMISSION FOR SALE OF BONDS

5. Consideration was given to a resolution authorizing and directing the City Clerk to publish a Notice of Intent to file application to the Local Government Commission for sale of bonds.

Mayor Bissette said the City has considered sale of some general obligation bonds for streets, sidewalks and other public works type improvements and for the partial funding of an Arts and Science Center in the Pack Plaza Project. This resolution requires the City Clerk to publish the Notice of Intent required by the North Carolina General Statutes.

Mayor Bissette noted that the proposed resolution and Notice of Intent would be proposing a $20 million dollar bond referendum that would require a 7-cent tax increase.

Mayor Bissette said members of Council were previously furnished copies of the resolution and it would not be read in its entirety unless there was a specific request to do so.

Councilman Michalove said in discussing the proposed bond referendum, he and Councilman Boland feel that the bond issue should be set at a higher amount, supporting a $27 million dollar issue which would require a 10-cent tax increase. He said he felt Council has not properly evaluated how much is needed and how the money needs to be used, and felt that Council has not given the public a chance to understand the needs and respond back to Council. He said the City has not put any capital dollars in the budget for several years. He said the City is faced with sharing a large cost of the right-of-way for the Broadway extension and other State road rights-of-way. He said the taxpayers in the City of Asheville have not, for the past several years, had a tax increase to meet the needs of the City. He said a $27 million dollar bond issue would create $45 million dollars, and would go a long way to correct a lot of the problems the City is facing. He said he has been given permission to have two guest editorials through WLOS-TV and the Asheville Citizen Times on Sunday. He said he would be appealing to the public to contact Council members in support of a $27 million dollar referendum.

Councilman Michalove then moved to postpone the vote on the resolution of intent to apply for the bonds until June 17, giving the citizens of Asheville an opportunity to be heard relative to the amount of the bond referendum. This motion was seconded by Councilman Boland.

Councilman Boland said he felt Council needed time to investigate all the needs of the City and to seek the public's support in the $27 million dollar bond issue which gives a return of $45 million dollars. For an example, Councilman Boland said a 10-cent tax increase would amount to, on property valued at $72 to $75 thousand dollars, $75 dollars a year or $1.45 per week. He said he did not feel this amount would break the citizens of Asheville since they had not had a tax increase in the last 6 or 7 years.

HIGHLIGHTS: The City has determined that it would be beneficial to contract for window cleaning service for the City Hall Building. Clear Day, Inc. has cleaned the windows in the past and references have been good to excellent. This resolution will authorize the City Manager to enter into a contract with Clear Day, Inc. to provide window cleaning service on a semi-annual basis. The total cost is $2,800.00 yearly. This is included in FY Custodial Services Budget.

Resolution Book 16, Page 17.

B. Resolution closing an alley, Carolina Lane, for an outside concert.

Resolution No. 86-92

HIGHLIGHTS: On June 6, the beach music group "Joe Pope and the Tams" will be performing in the Lexington Park Courtyard from 8:00 p.m. until 12:00 midnight. The City has received a request from D. Leverette, Inc. that this alley needs to be closed from 5:00 p.m. to 12:30 a.m.

Resolution Book No. 16, Page 18

Resolution No. 86-93

C. Consideration of a resolution to amend Resolution No. 80-158 regarding Rule 34 of Rules and Procedures for the Asheville City Council.

HIGHLIGHTS: This resolution will amend Rule 34 of the Rules and Procedures for the Asheville City Council by authorizing settlement of subrogation claims by the City Manager on behalf of the City of Asheville arising against third parties responsibile for liabilities incurred by the City under the Workers' Compensation Act.

Resolution Book No. 16, Page 19.

D. Scheduling a public hearing relative to approving the revision of Rule 17 (e) of the Civil Service Rules and Regulations for June 17, 1986.

HIGHLIGHTS: The revision of Civil Service Rule 17 (e) will clarify that death leave can only be taken when an employee is scheduled to work and that it must be taken at the time of the emergency. It prohibits employees who are otherwise not

of Harry E. Adams along with Mr. Adams' contribution of $5,420,70 and a contribution by the State of North Carolina in the sum of $699.05 in order to make Mr. Adams a participant in LGERS.

Upon motion of Councilman Tisdale, seconded by Councilman Boland, Resolution No. 86-90 was unanimously adopted.

Complete text of Resolution No. 86-90 will be found in Resolution Book No. 16 at Page 16.

REPORT FROM CORPORATION COUNSEL - AMENDING THE SIGN ORDINANCE

7. Mayor Bissette said at the May 20, 1986, meeting the Corporation Counsel was instructed to review the legality of amending the sign ordinance providing that Council would not approve any off-premises signs that are within 600' of a limited access highway and that a report be given to Council on June 3, 1986.

Corporation Counsel Slawter said, as discussed in the Pre-Council meeting, he would offer four alternatives relative to amending the Sign Ordinance for off-premises signs that are within 600' of a limited access highway. He said Council could: 1) Eliminate the requirement that Asheville City Council approve signs within 600' of a limited access highway; 2) prohibit off-premises advertising signs within 660' of a limited access highway, being that 660' is the distance for State and Federal regulations on signs; 3) prohibit off-premises advertising signs in certain zoning districts and include all districts along major highways; or 4) adopt stricter standards for off-premises advertising signs within 660' of a limited access highway or in specific zones. He said alternatives 2, 3, and 4 would require an amortization schedule for existing signs.

Councilman Michalove moved to forward the alternatives offered by the Corporation Counsel to the Planning and Zoning Commission for their review and recommendation at their next meeting. This motion was seconded by Councilman Boland and carried unanimously.

APPROVAL OF CONSENT AGENDA

8. **NOTE:** The following items are of a routine nature and they have been previously reviewed by the members of the City Council. Therefore, by unanimous vote to approve these items, the City Council may, pursuant to the procedures established in Ordinance No. 1008, adopt all of the items with one motion without the full reading and/or separate motion adopting each individual item. Upon the request of a citizen, a member of the City Council, and/or a member of the City staff, any single item scheduled for approval on the consent agenda may be considered separately.

Resolution No. 86-91

A. Resolution authorizing the City Manager to enter into an agreement with Clear Day, Inc. for professional window cleaning service for the City Hall Building.

Upon motion of Councilman Tisdale, seconded by Vice-Mayor Frank, the Consent Agenda was unanimously approved.

COUNCILMAN TISDALE'S COMMENTS RELATIVE TO PARKING VIOLATION REVENUES

9. Councilman Tisdale noted that as a result of North Carolina General Assembly action, parking violation revenues in the amount of $72,092.70 for the period of July 1, 1985 through April 30, 1986, were forwarded to the County Finance Director. He said the revenues to the County are diminished only by the actual cost of collections which may not exceed 10% of the amount collected. He noted that the City cost of collection are significantly more than 10% of the revenues collected, thus the reason for remittence of 90% of the parking violation revenues.

CLAIMS - NOLA KNUCKLES (WATER) - ADDIE BEASLEY (WATER)

10. The City Manager presented claims received from Nola Knickles and Addie Beasley.

Mayor Bissette referred the claims to the Corporation Counsel for investigation and recommendation.

COMPLAINT - AZALEE RUSTIN - 204 BROADWAY

11. Azalee Rustin of 204 Broadway spoke to members of Council relative to several decorations in front of her house being stolen on May 28th. She said she had called the Asheville Police Department and felt they did not adequately investigate the theft.

Mayor Bissette asked the City Manager to check on the complaint of Azalee Rustin and to have someone from the City Staff to get back in touch with Mrs. Rustin.

PETITIONS - RESIDENTS OF MAXWELL STREET AND MONROE PLACE

12. Mrs. Hughes of 14 Maxwell Street, speaking on behalf of the Maxwell Street Community Watch group, presented two petitions to members of Council relative to two residences on Maxwell Street and Monroe Place in which the neighbors are having problems. She said Officers Allen and Masters with the Asheville Police Department, have been working with the neighbors relative to the problems the neighbors are having from the happenings at 11 Maxwell Street and 27 Monroe Street.

Mayor Bissette requested that the City Manager check into the problems specified in the petition and report back to members of Council at next week's meeting.

Mr. and Mrs. Williams of 7 Maxwell Street also spoke relative to the problems from these dwellings.

Frank Bray from 17 Maxwell Street said the residents in that area want to live in a respectful neighborhood and the people living in these houses are not allowing that to happen. He requested that Council try to vacate these houses which are two troublesome spots and annoying situations.

working (due to annual leave, sick leave, or regularly scheduled days off) from substituting death leave for any other time they are absent from work. In addition, the definition of "immediate family" has been expanded and time off has been provided for employees to attend the funerals of co-workers and close personal friends.

E. Scheduling a public hearing for a site plan of the proposed relocation of Kinco Corporation to Lot #7 of the Emma Airport Associates Subdivision for June 24, 1986.

HIGHLIGHTS: The Asheville Planning and Zoning Commission at a meeting held May 14, 1986, reviewed the site plan of the proposed relocation of Kinco Corporation to Lot #7 of the Emma Airport Associates Subdivision. The site plan was prepared by Ashley Engineering Company for Mr. Bob Kinser, Developer, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of the project provided that it has no access to Brickyard Road and compliance with the Erosion Control Ordinance.

F. Scheduling a public hearing for the site plan of a proposed six-unit apartment to be located on Barnard Avenue for June 24, 1986.

HIGHLIGHTS: The Asheville Planning and Zoning Commission at a meeting held May 14, 1986, reviewed the site plan of a proposed six-unit apartment to be located on Barnard Avenue. The site plan was prepared by Frank McGahren, Engineer, for Mark Carlson, Developer, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of the project subject to compliance with the Erosion Control Ordinance.

G. Scheduling a public hearing to consider an ordinance amending Chapter 30 of the Code of Ordinances of the City of Asheville to create The Chestnut-Liberty Street Area as local historic district for June 24, 1986.

HIGHLIGHTS: This ordinance designates the Chestnut-Liberty Street neighborhood as a local historic district. Certificate of Appropriateness are required by a property owner before any exterior rehabilitation or new construction can take place.

Tuesday - June 10, 1986 - 4:00 p.m.

Regular Meeting

Present: Vice-Mayor Mary Lloyd Frank, Presiding; Councilmen Wilhelmina Bratton, Walter R. Boland; Kenneth M. Michalove, Norma T. Price, and George M. Tisdale; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Mayor W. Louis Bissette

INVOCATION

The invocation was given by Councilman Michalove.

APPROVAL OF THE MINUTES - JUNE 3, 1986

1. Consideration was given to the approval of the minutes of the June 3, 1986 meeting.

Vice-Mayor Frank noted a typographical error in the minutes of the June 3, 1986 minutes.

Vice-Mayor Frank announced the approval of the minutes as amended.

PROCLAMATION - JUNE 11-13, 1986 AS "JAIL-A-THON" IN ASHEVILLE FOR THE AMERICAN CANCER SOCIETY

2. Vice-Mayor Frank read a proclamation proclaiming June 11-13, 1986 as "Jail-A-Thon" in Asheville for the American Cancer Society.

Vice-Mayor Frank presented the proclamation to Judith Holt and Susan Johnson with the American Cancer Society.

PROCLAMATION - JUNE 14, 1986 - "FLAG DAY"

3. Vice-Mayor Frank proclaimed June 14, 1986 as "Flag Day" in the City of Asheville.

ORDINANCE NO. 1586 - BUDGET ORDINANCE AMENDMENT TO ESTABLISH A BUDGET FOR HIGHWAY SAFETY GRANT - SEAT BELT PROGRAM

4. Consideration was given to a budget ordinance amendment to establish a budget for highway safety grant - seat belt program.

Vice-Mayor Frank said this budget amendment is to establish a budget for an approved state grant. The funds will be used to cover expenses incurred in establishing and conducting a community passenger safety program. This is a one-third match program to be matched with in-kind services. She said this is a state grant in the amount of $21,600.00.

Councilman Boland moved for the adoption of Ordinance No. 1586. This motion was seconded by Councilman Tisdale.

Elizabeth Smith of 26 Monroe Street said she felt the people living at these dwellings are also selling drugs and the Police Department would not do anything about it because they have said they have to "see it happening first".

RALPH BISHOP - LOTTERY SALES IN THE CITY OF ASHEVILLE

13. Ralph Bishop again spoke to members of Council relative to the lottery sales in the City of Asheville and his involvement with the Asheville Police Department relative to his complaints about lottery sales.

ADJOURNMENT

Upon motion of Councilman Boland, seconded by Councilman Tisdale, the meeting adjourned at 6:30 p.m.

MAYOR

William F. Worsett
CITY CLERK

BIDS - UNIFORM SHIRTS AND PANTS FOR CITY'S FIRE DEPARTMENT

7. Consideration was given to a motion relative to bids received for uniform shirts and pants for the City's Fire Department.

Vice-Mayor Frank said sealed bids were invited to furnish the estimated annual requirements of uniform shirts and pants for the City's Fire Department. Three (3) bids were received. Low bid was submitted by the Whole Armor Uniform Company, 570 Hendersonville Road, Asheville, North Carolina. This bid fully meets all requirements of our request for quotation and offers guaranteed firm pricing until April 30, 1987.

The City Manager said bids were received from Whole Armor Uniform Company in the amount of $9,977.94; Kay Uniforms in the amount of $10,688.20; and Hub-Stinnette Uniforms in the amount of $10,785.80.

Councilman Tisdale moved to award the bids to the low bidder, Whole Armor Uniform Company in the amount of $9,977.94. This motion was seconded by Councilman Price and carried unanimously.

APPROVAL OF CONSENT AGENDA

8. Vice-Mayor Frank said the following items are of a routine nature and they have been previously reviewed by the members of the City Council. Therefore, by unanimous vote to approve these items, the City Council may, pursuant to the procedures established in Ordinance No. 1008, adopt all of the items with one motion without the full reading and/or separate motion adopting each individual item. Upon the request of a citizen, a member of the City Council, and/or a member of the City staff, any single item scheduled for approval on the consent agenda may be considered separately.

Resolution No. 86-96

A. Consideration of a resolution appointing members to the Board of Adjustment.

HIGHLIGHTS: The term of Hal Talbert, as a member of the Zoning Board of Adjustment expired on January 21, 1986. This resolution will appoint Ben McKenzie, 25 Summerhill Drive, Asheville, N. C. 28804, for a term of three years, term expiring January 21, 1989, or until his successor is duly appointed and qualified.

FISCAL IMPACT: None

Resolution Book 16, Page 24

Resolution No. 86-97

B. Consideration of a resolution appointing members to the Asheville Regional Airport Authority.

On a roll call vote of 6-0, Ordinance No. 1586 passed on first and final reading.

Complete text of Ordinance No. 1586 will be found in Ordinance Book No. 11 at page 19.

RESOLUTION NO. 86-94 - RESOLUTION SETTING POLICY FOR SEWER CONNECTIONS AND EXTENSIONS AS WELL AS REPAIR WORK FOR SERVICE LINE STOPPAGES

5. Consideration was given to a resolution setting policy for sewer connections and extensions as well as repair work for service line stoppages.

Vice-Mayor Frank said by Resolution No. 69-1, City Council established an interim policy concerning water and sewer line extensions for the City of Asheville both inside and outside the corporate limits. Resolution No. 86-63 sets a policy for sewer line extensions to non-contiguous annexation areas. Neither of these resolutions nor any ordinances set forth the policy for sewer connections or for the responsibility of the City with regard to stoppages in service lines. This resolution is setting a policy for sewer connections and extensions and service line stoppages for the City of Asheville.

Upon motion of Councilman Tisdale, seconded by Councilman Price, Resolution No. 86-94 was unanimously adopted.

Complete text of Resolution No. 84-94 will be found in Resolution Book No. 16 at Page 20, 21, and 22.

RESOLUTION NO. 86-95 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE ON BEHALF OF THE CITY OF ASHEVILLE AN AGREEMENT BY AND BETWEEN THE CITY OF ASHEVILLE AND ASHEVILLE-BUNCOMBE DISCOVERY TO FUND A MEDIATOR WITH REGARD TO RENOVATION OF THE GROVE ARCADE BUILDING

6. Consideration was given to a resolution authorizing the Mayor to execute on behalf of the City of Asheville an agreement by and between the City of Asheville and Asheville-Buncombe Discovery to fund a mediator with regard to renovation of the Grove Arcade Building.

Vice-Mayor Frank said Asheville-Buncombe Discovery has received a grant from the National Trust for Historic Preservation to hire a mediator to negotiate an agreement between the General Services Administration of U.S. and Asheville-Buncombe Discovery or other representative of the Asheville Community for renovation of the Grove Arcade Building. The grant is in the amount of $2,000.00 and requires matching funds from the grantee. She said matching funds in the amount of $2,000.00 are available in the Community Development budget.

Upon motion of Councilman Price, seconded by Councilman Boland, Resolution No. 86-95 was unanimously adopted.

Complete text of Resolution No. 86-95 will be found in Resolution Book No. 16 at Page 23.

HIGHLIGHTS: Jack Westall has resigned as a member of the Asheville-Buncombe Historic Resources Commission. This resolution will appoint Mr. Jim Cairnes, 209 Cumberland Avenue, Asheville, NC, 28801 to the Asheville-Buncombe Historic Resources Commission to serve the unexpired term of Jack Westall, term expiring on July 1, 1988, or until his successor has been duly appointed and qualified.

FISCAL IMPACT: None

Resolution Book 16, Page 28.

Upon motion of Councilman Michalove, seconded by Councilman Boland, the Consent Agenda was unanimously approved.

SCHEDULING PUBLIC HEARING - ORANGE STREET OFFICE PARK GROUP DEVELOPMENT

9. Councilman Michalove moved to schedule a public hearing relative to the Orange Street Office Park Group Development for July 8, 1986. This motion was seconded by Councilman Price and carried unanimously.

SCHEDULING PUBLIC HEARING - UMTA GRANT - SECTION 9

10. Councilman Boland moved to schedule a public hearing relative to amending the current capital grant contract for the Urban Mass Transportation Administration under Section 9 of the Urban Mass Transportation Act of 1964, as amended, for June 24, 1986. This motion was seconded by Councilman Michalove and carried unanimously.

COUNCILMAN TISDALE - REPORT RELATIVE TO ASHEVILLE CABLEVISION COMMISSION MEETING

11. Councilman Tisdale noted that the Asheville Cablevision Commission held its second meeting on June 9, 1986, at the offices of Asheville Cablevision on Charlotte Street. He said all members of the Commission were present and toured the entire facilities at the Asheville Cablevision office. He said members of Council would be receiving minutes of the Commission's meeting. He did note, however, that data was presented at the meeting indicating an increase in the expanded subscribers of 1% and basic subscribers dropping 1% which indicated that subscribers are interested in the expanded services offered by Asheville Cablevision. He said he was impressed with the continued efforts of Asheville Cablevision to improve the service in the City of Asheville. He said no complaints were received during the past month relative to cablevision in the City of Asheville.

CLAIMS - ED PREUNINGER (SANITATION) - MRS. B. M. EDINGTON (WATER)

12. The City Manager presented claims received from Ed Preuninger and Mrs. B. M. Edington.

Vice-Mayor Frank referred the claims to the Corporation Counsel for investigation and recommendation.

HIGHLIGHTS: The terms of Richard L. Haber and William F. Wolcott, Jr. will expire on June 30, 1986. This resolution will appoint Mr. William G. Moore, 18 Buckingham Court, Asheville, N. C. 28803, and Mrs. Mimi Cecil, 7 Firth Drive, Asheville, N.C. 28803 to fill the vacancies, terms expiring on June 30, 1990, or until their successors have been duly appointed and qualified.

FISCAL IMPACT: None

Resolution Book 16, Page 25.

Resolution No. 86-98

C. Consideration of a resolution appointing a member to the Asheville Transit Authority.

HIGHLIGHTS: The term of Murray A. Miller expired on December 31, 1985. This resolution will appoint Don Patton, 15 Reynolds Place, Asheville, N.C. 28804 to a four (4) year term, term expiring on December 31, 1989, or until his successor has been duly appointed and qualified.

FISCAL IMPACT: None

Resolution Book 16, Page 26.

Resolution No. 86-99

D. Consideration of a resolution appointing a member to the Western North Carolina Air Pollution Control Board.

HIGHLIGHTS: Franklin R. Schutz has resigned as a member of the Western North Carolina Air Pollution Board. This resolution will appoint the Reverend Nilous M. Avery, 46 Chunns Cove Road, Asheville, N. C. 28805 to fill the unexpired term, term expiring on January 15, 1992, or until his successor has been duly appointed and qualified.

FISCAL IMPACT: None

Resolution Book 16, Page 27.

Resolution No. 86-100

E. Consideration of a resolution appointing a member of the Asheville-Buncombe Historic Resources Commission.

earmarked for the Education, Science and Art Center and $24 million for public works projects. My concern is that we are currently not thinking broad enough for the public works projects that I feel we should be considering.

Asheville has 325.63 miles of its own streets, not counting the state system streets.

On June 5, 1986 City Manager Doug Bean sent us a memo entitled "Recap of Public Improvement Funding Needs", a recap of needs outlined at the worksession on the Public Improvement Plan as they were included in the $20,000,000 level bond issue.

In this recap Doug listed Streets: as "A" - Low Volume/residential and "B" - High Volume/collector & thoroughfare.

Rating	A	B
Fair	21 miles/ $1.0 million	17 miles/ $1.3 million
Poor	38 " / 1.7 "	

	TOTAL	
76 miles of A & B streets	4.0	million
add misc.	.5	
At this point Doug's memo stops with street improvements but indicates several items left out — Sub Total	4.5	

I recommend that we look at some of the following in addition to the $4.5 million.

3 years of deterioration since the study was done - est. damage $750,000 annually (cost of overlay 2"-2 twelve foot lanes, 2" thick, one mile $72,000)	2.25
Right-of-way cost for major corridors (Hendersonville Road, Leicester Hwy., Broadway, I-40/25-A, etc. Average 30% of $ 8,466,000 (does not include Broadway greenbelt)	2.54
Beverly Road (Haw Creek to Tunnel Rd.)	.28
Fairview Road (ROW, 2 twelve ft. lanes sidewalk and some drainage)	2.50
Kenilworth Road (ROW, 2 twelve ft. lanes sidewalk and some drainage)	3.25
Computerized signalization (N,E,S,W, all major state system streets to the City limits to compliment what we have borrowed money to do downtown)	1.00
Pay off existing loan to state for signals	.26

DISCUSSION RELATIVE TO AMOUNT FOR BOND ISSUE FOR PUBLIC IMPROVEMENTS

13. Councilman Michalove, urging members of Council to increase the bond amount from $20 million to $27 million, read the following memorandums to members of Council stating that if the greater amount is not obtained now, the City would be forced to come back to the voters in the near future with another referendum in what is likely to be a much poorer economic climate. He said he did not feel Council members are aware of the total needs for street improvements. He said the information furnished to members of Council relative to streets were from a three-year old map and there has been substantial deterioration of the streets since the map was prepared.

MEMORANDUM

To: Members of City Council

From: Ken Michalove Date: June 10, 1986

The Asheville Alternatives survey forms produced some interesting information regarding the need for a bond issue regardless of the amount we finally set.

Out of the 278 surveys returned 247 said we needed to utilize bond referendum mechanisms to finance major public improvements, 24 said no.

Out of the 278 respondents the following numbers gave their input regarding taxes:

91	said	raise	5%
71	"	"	10%
30	"	"	15%
4	"	"	20%
15	"	"	25%
2	"	"	50%

MEMORANDUM

To Lou Bissette, Mayor
Mary Lloyd Frank, Vice-Mayor
Walt Boland
Wilhelmina Bratton
Norma Price
George Tisdale

From: Ken Michalove Date: June 10, 1986

Subject: $27 Million Dollar Bond Issue

As you all are aware I have continued to push for the $27 Million Bond Issue. The purpose of this memo is to provide you with some information that I hope will help expand your horizons regarding this bond issue. With the $27 million issue $ 3 million is

Upon inquiry of Councilman Tisdale, Councilman Michalove said he would be in favor of increasing the tax rate by 10 cents in this year's budget, even though a bond referendum of $27 million dollars failed.

Councilman Price said she would be willing to support submitting the $27 million referendum to the voters, but increasing the tax rate only 7 cents in this year's budget, rather than the 10 cent required to repay the $27 million dollar issue. She said if the citizens of Asheville approved the referendum of $27 million, the additional 3 cents necessary to repay the higher bond debt could be added to the tax rate in next year's budget. She said if the bond vote fails, the 7 cents tax increase would remain in the budget, but the additional 3 cents would not be added.

Vice-Mayor Frank said she could not support the motion to have a $27 million bond issue. She said she felt $20 million would be sufficient, since the County of Buncombe would also be experiencing a tax increase this year.

Councilman Bratton said she could not support more than a $20 million bond referendum. She said she felt industries in the area have had cutbacks and many industries have closed which greatly affects the citizens of Asheville. She also said she did not feel Council should take action of this importance with the Mayor being absent. She said she felt every Council member had digested and reviewed the needs and problems of the City of Asheville, and she resented one Council member pushing other Council members into another decision. She said it was her hope that the Council members, as a whole, could seek approval of a $20 million bond issue to address the needs of the City of Asheville.

Upon inquiry of Councilman Price, the City Manager said, in his opinion, itemizing improvements on the bond referendum, such as streets, sidewalks, and storm drainage would put the bond issue in jeopardy. He said the wording on the bond referendum needs to be simple. He said if the specific projects were itemized, it would severely restrict Council's use of funds.

Councilman Tisdale requested a roll call vote on Councilman Michalove's motion.

Augusta Young, of Kenilworth Road, spoke in favor of increasing the bond amount to $27 million, stating that during the Alternatives for Asheville meetings, the needs of the community were expressed. She said she would be willing to help Council pass the bond issue, however, in her opinion, Council should pass the $27 million bond issue and make the public improvements necessary.

Mr. Gaston Brackett of 9 Main Street, Oakley, spoke in opposition to any tax increase in the City budget. He said the majority of the residents of the City of Asheville could not afford any more tax. He suggested that everyone pay for the needed public improvements, including tourists, perhaps through the use of sales tax.

Ralph Bishop also spoke in opposition to a tax increase in the City of Asheville.

Pay off existing ROW to state	.15
Haywood Rd. (milling, sidewalk)	1.00
Old Toll Road (min. drainage, 5' shoulders, 2 ten foot lanes w/ guard rail)	2.20
GRAND TOTAL	$ 19.93

You can probably think of some roads that should also be considered or some other projects that fall into the other public works categories.

I feel that the $20 million Issue as currently structured calls for too much to be spent on sidewalks in relationship to the street work and storm drainage work that needs to be done.

I think that some sidewalk work around schools, recreation centers, and some other public areas is appropriate but I also feel that in other areas we should follow the policy of the City doing the work and the property owner supply the ROW and materials.

On drainage work I agree that a storm drainage master plan should be done, but I also feel that we need to adequately fund this accordance with my recommendation to the Council May 27, 1986.

Other considerations in the cost of this are as follows:

Estimated cost of referendum	$ 20,000
" " " bond counsel not to exceed	20,000
Cost to issue the bonds	6,000

Based on this information I would hope that the Council would reconsider the level of the bond issue and raise the amount from $20 million to $27 million.

Councilman Michalove moved to advertise a notice of intent for the City of Asheville to hold a referendum on the issuance of $27 million in bonds for needed improvements. This motion was seconded by Councilman Boland.

Councilman Boland said the $27 million bond issue would be minimally sufficient. He said he felt the interest rate was right for issuing bonds, and the needs of the City of Asheville are massive. He said he felt the concerns expressed by the citizens of Asheville during the Alternatives for Asheville meetings, and concerns expressed through the Urban Design Workshop have indicated that the citizens are aware of the needs of the City's public improvements.

Councilman Tisdale said he would not be in favor of issuing a $27 million bond issue with a 10 cent tax increase. He said he felt if a bond issue should fail, the tax levy should not be increased. He said the citizens of Asheville should decide the amount of tax increase.

Upon inquiry of Councilman Price, Corporation Counsel Slawter said a roll call vote on Councilman Michalove's motion was in order.

On a roll call vote of 3-3, Councilman Michalove's motion to increase the bond amount to $27 million failed for a lack of majority votes, with Councilman Boland, Councilman Price, and Councilman Michalove voting "aye", and Councilman Tisdale, Vice-Mayor Frank, and Councilman Bratton voting "no".

RALPH BISHOP - LOTTERY SALES IN THE CITY OF ASHEVILLE

14. Ralph Bishop again spoke to members of Council relative to lottery sales in the City of Asheville.

ADJOURNMENT

Upon motion of Councilman Tisdale, seconded by Councilman Boland, the meeting adjourned at 5:30 p.m.

MAYOR

CITY CLERK

He said Mrs. Morris actively serves her community through the participation in such organizations as the Commission of the Status of Women, the Planning Committee of the Department of Social Services, the Asheville Day Nursery, and the United Methodist Church. He said this resolution commends Mrs. Morris and her family for outstanding accomplishments in upholding traditional values and for receiving the well-deserved honor of the Great American Family award, and expresses Council's sincere appreciation for their valuable service to our community.

Upon motion of Councilman Bratton, seconded by Councilman Tisdale, Resolution No. 86-102 was unanimously adopted.

Complete text of Resolution No. 86-102 will be found in Resolution Book No. 16 at Page 30.

Mayor Bissette presented the Resolution to Mrs. Morris and her family.

PUBLIC HEARING - SITE PLAN OF SUNSET POINTE CONDOMINIUMS - TOWN MOUNTAIN ROAD

3. A public hearing was held relative to a site plan of the Sunset Pointe Condominiums to be located on Town Mountain Road.

Mayor Bissette said the Asheville Planning and Zoning Commission at a meeting held May 14, 1986, reviewed the site plan of Sunset Pointe Condominiums to be located on Town Mountain Road. The site plan was submitted by Freeman, Wells, and Major, Architects, Greenville, S. C. for W. R. Martin Corporation, Developer, in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commision voted to recommend approval of the project subject to: 1) extension of 6" water line 200' north toward existing apartments and addition of one fire hydrant; and 2) compliance with Erosion Control Ordinance.

Mayor Bissette opened the public hearing at 4:20 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said the Asheville Planning and Zoning Commission had reviewed the site plan of the Sunset Pointe Condominiums and recommended approval subject to the two conditions outlined by Mayor Bissette. He said the developer and the Planning staff have reviewed the plans for the proposed project and finds them to be in conformity with Ordinance No. 1558 relative to protected ridges and Ordinance No. 1554, restricting heights to 40 feet. He said the project complies with both ordinances. By the use of a map, Mr. Emrick showed the project to be in compliance with the ordinances. He said the project would be composed of 48 units, constructed on 21 acres. He said 7 acres will be used for the construction site. He said water and sewer lines are available, however, some lines below the project would have to be replaced or upgraded at the expense of the developer. He said the developer would be

Tuesday - June 17, 1986 - 4:00 p.m.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Mary Lloyd Frank; Councilmen Wilhelmina Bratton, Walter R. Boland; Kenneth M. Michalove, Norma T. Price, and George M. Tisdale; Acting Corporation Counsel Patsy Brison; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Corporation Counsel William F. Slawter.

INVOCATION

The invocation was given by Mayor Louis Bissette.

APPROVAL OF THE MINUTES - JUNE 10, 1986 MEETING

1. Consideration was given to the approval of the minutes of the June 10, 1986, meeting.

Mayor Bissette announced the approval of the minutes as submitted.

RESOLUTION NO. 86-101 - RESOLUTION OF APPRECIATION TO WILLIAM ROGER WILLIAMS

2. Consideration was given to a resolution of appreciation to William Roger Williams.

Mayor Bissette said William Roger Williams has served the City of Asheville Water and Sewer Services Department since June 1, 1959. Since that time, Roger Williams has contributed generously of himself in the service of his fellow citizens through the work of the Water and Sewer Services Department, and has helped to make the City of Asheville and Buncombe County a better place in which to live.

Upon motion of Councilman Price, seconded by Councilman Michalove, Resolution No. 86-101 was unanimously adopted.

Mayor Bissette presented the resolution to Roger Williams.

Complete text of Resolution No. 86-101 will be found in Resolution Book No. 16 at Page 29.

RESOLUTION NO. 86-102 - RESOLUTION OF COMMENDATION TO MRS. MILDRED MORRIS AND FAMILY

2a. Consideration was given to a resolution of commendation to Mrs. Mildred Morris and family.

Mayor Bissette said the American Family Society sponsors and coordinates an annual Great American Family Awards Program, and Mrs. Mildred Morris and family was chosen as one of the six great American families honored by Mrs. Reagan at the White House on June 10, 1986. He said Mrs. Morris has been a single parent to a dozen children, two of her own and ten foster children, known as " a second mother" rather than a "foster parent".

because of the very steep slopes involved in the project. He said he understood that another, or a final set of plans, had been submitted to the City Engineering Division for erosion control, but the plans could not be obtained, therefore, the residents had no assurance of safe and adequate drainage control. He also questioned the density of the units per acre for the proposed project. He said, in his opinion, the project does not meet the requirements of the Protected Ridge Law.

Mr. John Coli again spoke to members of Council, requesting that Council disapprove the project on the basis that it is not compatible with the 1977 Land Use Plan, adopted by Council, and the incompleteness of the project due to storm drainage in the area.

Jasmin Gentling of 241 Old Toll Road spoke against the project due to the increased possibility of storm drainage damage. She showed members of Council photographs of damage that had already been done due to erosion control in the area.

Barbara Mailoy of 107 Evelyn Place, President of the Grove Park Sunset Citizens Association, also spoke in opposition of the project.

Jerry Hobbs of 106 Old Toll Road spoke in opposition to the project. He stated that he has sustained property damage due to storm water run-off since the cutting of trees on the proposed site.

Loren Wells of 710 Town Mountain Road, owner of "Overlook Castle" spoke in opposition to the project and presented a letter from Dr. William Highsmith regarding restrictive covenants on the proposed site.

Mrs. Wells of 710 Town Mountain Road spoke in opposition to the project, stating that this would have a great effect on the "Overlook Castle" that they had remodeled, and that "Overlook Castle" is on the National Historic Register and is a Local Historic District.

Dorothy Davis-Dodge of 155 Patton Mountain Road spoke in opposition to the project, stating that this project would be an insult to the environment of the neighborhood.

Brainard Rorison of 1 Crestwood Road spoke in opposition to the project.

Mrs. Scully of 17 Bluebriar Road spoke in opposition to the project, citing problems with drainage.

Patricia Davies, of 362 Town Mountain Road spoke in opposition to the project, noting that this would increase the traffic congestion on Town Mountain Road.

Alfred Adams, Attorney, representing the developer, again spoke to members of Council relative to approval of the project, stating that the proposed structure would be in compliance with all local and state laws. He said the units would be in breaks, and would be staggered, and built around the base of the mountain, using 2½ acres of the property for construction, and would enhance the neighborhood.

William Martin of W. R. Martin Corporation spoke in support of the project.

providing a 200,000 gallon reservoir which would be used solely for fire protection. He said the developers have submitted plans to the City Engineering Department for erosion control, and approval of the plans is anticipated within two weeks. He said under State statutes, a developer cannot create or exceed more water runoff than is currently existing. He said the developer intends to provide additional retention ponds to take care of any additional runoffs created by the project.

Alfred Adams, Attorney, representing W. R. Martin Corporation, Developer, spoke in support of the project. He said the developer submitted plans a year ago which were denied. He said after months of discussion and revamping, and downscaling of the project, his client had received approval by the Planning and Zoning Commission of the project. He said, in his opinion, the project will enhance the tax base of the City of Asheville, and provide reasonable growth needed in the City. He said the total project is in compliance with the permitted use of the land, and to table or postpone action on the site plan would not be consistent with the developers intent nor with the neighborhood. He said the developer would comply with all laws relative to storm drainage, and would receive approval from the City Engineering Division for erosion control plans prior to beginning the project.

Allan Freeman, Architect for the project, spoke in support of the project, and outlined the details of the construction phase. He said parking would be provided on the top ridge of the mountain, and the entrance would be by the use of a bridge.

Representing the Grove Park Sunset Citizens Association, John Coli of 314 Town Mountain Road, spoke in opposition to the project. He said the proposed project is not in compliance with the Land Development Plan, Phase II, Land Use and Growth, adopted by Asheville City Council on August 4, 1977. He said the plan adopted in 1977 was still in effect and in force. He said the plan provides policies for guiding future growth by elected officials.

Francis Manley of 310 Town Mountain Road spoke in opposition to the project, stating that the residents on Town Mountain Road have no storm sewer system, and water is dumped on private properties, causing serious problems. He also referred to the 1977 plan and referred to a soil map and a policy set forth in the plan to discourage development on slopes 25% or greater. He further referred to a map of existing and future land use recommending single family residential use. He said when the developers of the proposed project cleared off trees and undergrowth, this caused additional problems to the private properties. He said when the project is completed, runoff problems will be compounded. He said it was his understanding that the City of Asheville has not allocated money for improvements in the City of Asheville for storm drainage. He requested that Council disapprove the project due to existing serious storm drainage problems, traffic congestion on narrow Town Mountain Road, in addition to being an eyesore and an insult to the environment.

Kenneth Pankow, with Pankow Engineering Company, said he was hired by the Grove Park Sunset Citizens Association to review the plans of the proposed project from a professional standpoint. He said in reviewing the plans, he found problems in erosion control. He said one of the guidelines of the Group Development Ordinance is to ensure safe and adequate storm drainage. He said there would be problems with storm water drainage, mainly

Acting Corporation Counsel Patsy Brison said Councilman Michalove's motion was out of order since members of Council must hold a public hearing and pass an ordinance relative to moratoriums, and also members of Council were strictly considering the site plan of the Sunset Pointe Condominiums at this time.

Councilman Michalove then moved to schedule a public hearing for a six-month moratorium on multi-family development in all areas that may be affected by the mountainside zoning ordinance. This motion was seconded by Councilman Boland and was defeated on a vote of 4-3, with Vice-Mayor Frank, Councilman Michalove, and Councilman Boland voting "aye".

Councilman Bratton said she felt members of Council has had adequate time to consider this proposed project, and should make a decision on the approval or disapproval of the site plan. She said the developer is meeting all requirements of the zoning and building codes of the City of Asheville.

Councilman Bratton moved to approve the site plan of the Sunset Pointe Condominiums to be located on Town Mountain Road. This motion was seconded by Councilman Price.

Councilman Michalove made a substitute motion to deny the site plan of the Sunset Pointe Condominiums on the information submitted to members of Council. This motion was seconded by Councilman Boland.

After discussion, Councilman Michalove withdrew his substitute motion.

On a voice vote of 6-1, Councilman Bratton's motion for approval for the site plan for Sunset Pointe Condominiums failed, with Councilman Bratton voting "for".

Mayor Bissette then announced that approval of the site plan was denied.

Councilman Michalove again moved to schedule a public hearing for a six-month moratorium on multi-family development in all areas that may be affected by the proposed mountainside zoning ordinance for July 8, 1986. This motion was seconded by Councilman Price and carried unanimously.

PUBLIC HEARING - APPROVING THE REVISION OF RULE 17(e) OF CIVIL SERVICE RULES AND REGULATIONS

4. A public hearing was held relative to approving the revision of Rule 17(e) of the Civil Service Rules and Regulations.

Mayor Bissette said the revision of Civil Service Rule 17(e) will clarify that death leave can only be taken when an employee is scheduled to work and that it must be taken at the time of the emergency. It prohibits employees who are otherwise not working (due to annual leave, sick leave, or regularly scheduled days off) from substituting death leave for any other time they are absent from work. In addition, the definition of "immediate family" has been expanded and time off has been provided for employees to attend the funerals of co-workers and close personal friends.

George Jensen, with Jensen Engineering Company, said the present City ordinance does not require developers to install stormwater retention ponds. However, the developer would be installing these retention ponds, and the erosion control plans were submitted to the City Engineering Department on June 16, 1986.

After discussion, Mayor Bissette closed the public hearing at 6:03 p.m.

Councilman Michalove commented that members of Council should consider many facets of this project, including the zoning plan mentioned by John Coli, and the legal requirements of Council relative to the project. However, Council members also need to make many determinations about the project, questioning whether or not the Planning and Zoning Commission considered the Land Use Plan adopted by City Council in 1977. He said he felt there were two types of storm drainage problems on Town Mountain Road due to buildings and homes on the mountain. He said members of Council should review and study this project, plus the overall area. He said he would also like to review the cross-section drawings of the proposed project as to what it would look like on the mountain. He said members of Council should review and take action on the proposed buffering ordinance and the mountainside zoning ordinance as it relates to this type project. He said he would also like to see formal correspondence from the Fire Chief and the Director of Water and Sewer Services regarding this project. He said he felt the proposed plans for the project were weak in the forms of buffering and storm drainage.

Councilman Boland agreed with Councilman Michalove and said aesthetics are also involved in this project, and Council members should look closely at the storm water drainage problems.

Vice-Mayor Frank said she would also be interested in reviewing the proposed mountainside zoning ordinance as it relates to these type projects.

Councilman Price said she could not support the project because it would have an important visual impact on the mountain, and before she could support the project, she would have to determine if it would be in harmony with the area.

Councilman Tisdale moved to postpone action on the site plan for Sunset Pointe Condominiums until members of Council could see the report from City Engineering Department relative to the erosion control plan and other questions relative to the project are answered, indicating that Council take action on the proposed project on July 1, 1986. This motion died for the lack of a second.

Councilman Price then moved that the site plan for the Sunset Pointe Condominiums be denied, stating that the plans did not meet the intent of the group development section of the Zoning Ordinance. This motion also died for the lack of a second.

Councilman Michalove moved to impose a moratorium on multi-family dwellings in all areas that may be affected by the proposed mountainside zoning ordinance. This motion was seconded by Councilman Boland.

I feel this section of the present rule should remain as is, except for the inclusion of grandchildren, grandparents, and step-children.

3. 1-Day/Personal Friends or Fellow Employees - I do not feel a whole day is necessary when personal friends or fellow employees. Here again, a person is supporting the immediate family, and the normal obligation is to visit the family "when friends are received" at the funeral home, preparation of food for the family, and attendance of the funeral. In most cases, I believe a person could do whatever is necessary to support the "immediate family" during the evening hours and use "annual leave" or "compensatory time" for the funeral itself. Therefore, I do not feel that Council should authorize a 1-day type leave.

I also see where the inclusion of this amendment could be abused by employees and department heads alike. Whose to make the judgement when an employee says "a close friend" has died and request time off on a weekly basis? Also, I think department heads could show a lot of favortism under the proposed amendment, and this would result in poor morale and job performance by employees feeling they were not given "equal treatment" by the department head.

I think it would be far better for employees to do as they are now - request whatever time necessary to attend the funeral (usually 1-2 hours is all that is necessary), and charge to comp or leave time.

I appreciate the opportunity to express myself on this important issue.

Mayor Bissette closed the public hearing at 6:53 p.m.

It was the consensus of Council to take no action on the revision of Rule 17(e), but to refer the matter to the Council Personnel Committee for their recommendation.

PUBLIC HEARING - 1986/87 ANNUAL BUDGET

5. A public hearing was held relative to the 1986/87 annual budget.

Mayor Bissette said in accordance with the Local Government Budget and Fiscal Control Act, a public hearing is required to receive public comments on the proposed budget for 1986-87. A copy of the proposed budget was submitted to Asheville City Council on May 30, 1986. He said the total budget would be $29,310,026.00.

The City Manager noted that members of Council had received copies of the proposed operating, capital, and water and sewer budget. He said the budget was being presented as a balanced budget with a 2 cent tax increase for operations to replace funds lost through federal cutbacks and to continue City services at their current levels, and 7 cents to be used to repay the bond debt if a bond referendum passes in September, or to fund

Anita Jones, Civil Service Manager, explained that the Civil Service Board had an inquiry on April 2nd, relative to a clarification of this rule. She said a proposal was drafted and was approved by the Civil Service Board to clarify bereavement leave to be taken only at the time of an emergency, and to extend a one-day bereavement leave for a close friend or co-worker. She said this revision would also expand the definition of immediate family. She said employees in the classified service were given notice of the public hearing, stating that they could either attend the public hearing to give their input or submit their comments to department heads, to be submitted to members of Council.

Lem Moore, Director of Inspections Division, said he had received several comments from his employees, taking exceptions to including aunts and uncles in the definition of immediate family, and not including in-laws. He said, in his personal opinion, he felt the written policy should be more general and Administration should grant bereavement leave on the merit of a personal situation.

Councilman Michalove requested that the following be included in the minutes since the memorandum was presented to members of Council.

MEMORANDUM TO: Members of Council

FROM: Margaret Messer

DATE: June 12, 1986

SUBJECT: Proposed Amendment to Rule 17(e) (Bereavement Leave)

As a member of the Classified Service and a City taxpayer, I would like to express my thoughts about the proposed amendment to Rule 17(e) (Bereavement Leave):

1. "Immediate Family" - I agree partly with the extended definition of "immediate family" whereby it would include father, mother, brother and sister, spouse, children, grandchildren, and grandparents. However, I do not think the definition should include aunts and uncles, but should include step-children.

   My reasoning for this is because most people are not obligated nor responsible in helping with the arrangements, etc. when aunts and uncles die, but do provide support to the "immediate family".

   If the Council wants to include aunts and uncles, I think they should be included in the "up to 1 day leave" category, designated for "aunts and uncles" only.

2. Bereavement Leave/3 days for Immediate Family - I agree that this leave should be taken during the time of the emergency. However, I do not feel that if an employee is on vacation or sick and a member of the "immediate family" dies, that days used for arrangements, etc. should be charged to annual or sick leave. You certainly cannot justify those days under the definition of "annual leave" or "sick leave".

J. Thomas Butler, of 13 Sayles Road, spoke in opposition to a tax increase or a bond issue, stating that he felt the City should make public improvements on a "pay as you go" basis, rather than mortgaging every home in the City of Asheville.

Doug Swain, of 296 Montford Avenue spoke in support of the proposed budget, and requested Council's approval of the full budget as submitted by the Historic Resources Commission. He also spoke in support of submitting a $27 million bond issue to the voters of the City of Asheville for streets, sidewalks, and storm drainage improvements, as well as a Arts and Science Center.

Councilman Price said she felt members of Council should also talk to the County relative to the Historic Resources Commission budget.

Bob Mayhew, of 131 Deerlake Drive spoke in opposition to a tax increase in the budget, stating that higher taxes will drive businesses and residents out of the City. He said he felt the City of Asheville was in competition with other areas and other states and he felt the City Council members should evaluate all needs and be as efficient as possible.

Richard Hurley, of 177 Wendover Road, speaking as a representative of the Square "D" Company, spoke in favor of submitting a $27 million bond issue to the voters of the City of Asheville. He said the Square "D" Company is willing to pay their share for the continued growth in the City.

Sally Rhodes, of 456 Merrimon Avenue also spoke in support of submitting the $27 million bond issue to the voters of the City of Asheville, particularly commenting on the need for an Arts and Science Center in the City of Asheville.

After discussion, Mayor Bissette closed the public hearing at 8:11 p.m.

ORDINANCE NO. 1587 - BUDGET ORDINANCE AMENDMENT TO SET UP STATE SEWER GRANT REVENUE RECEIVED FOR CITY OF ASHEVILLE SEWER MASTER PLAN

6. Consideration was given to a budget ordinance amendment to set up State sewer grant revenue received for City of Asheville Sewer Master Plan.

Mayor Bissette said the State of North Carolina approved a grant application for the City of Asheville Sewer Master Plan. This grant is a 50% match grant. The sewer master plan is currently funded 100% with local funds; however, the staff is recommending that these additional funds be appropriated under the contingency account with the Master Plan, and an appropriation for the Smith Bridge sewer line relocation project (Municipal Agreement Project No. 8.2840101). He said this grant will in effect, increase the available local funds in the amount of $749,762 for sewer extensions or annexation related improvements.

Mayor Bissette said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety unless there was a specific request to do so.

minor capital improvements if the referendum fails. He said the budget also includes the use of 1.4 million of the fund balance to balance the budget. He said the budget also includes maintaining a 12 cent capital reserve budget. He said the budget also includes an increase to the Chamber of Commerce and the Asheville-Buncombe Community Relations Council since the County of Buncombe was not going to fund the Community Relations Council.

Councilman Bratton commended the City Manager for a job well done on the proposed 1986/87 budget. She said she felt there were several agencies in the City of Asheville where funding is on a formula basis between the City of Asheville and the County of Buncombe. She said she was concerned about this formula and felt the City Council and the County of Buncombe should meet each year at budget time on projects that are jointly funded by the City and the County. She requested that members of Council request the County Commissioners meet with the City Council to discuss, among other things, budgets for agencies set out in the Water Agreement.

Councilman Price requested that Mayor Bissette contact the Buncombe County Commissioners to have a joint meeting within the next week relative to the budgets for outside agencies outlined in the Water Agreement.

Councilman Boland said that he felt the Asheville City Council and the County Commissioners should meet on a regular basis to discuss many mutual efforts.

Councilman Tisdale said he did not support a 2 cent tax increase on the budget since he felt there were many internal controls that could be taken, such as the use of City vehicles, lights in the building staying on after midnight, and energy savings. He said he felt Council or the City staff should have internal committees to cut cost, putting forth real efforts in effectively spending taxpayers money wisely. He said he felt members of Council should live up to the requirements in the Water Agreement relative to funding of the Chamber of Commerce and the Asheville-Buncombe Community Relations Council.

Councilman Michalove said he was concerned about the proposed budget since the City of Asheville does not have enough revenue to balance a budget without having to go into the fund balance. He said, from past experience, he knew that the budget could not be cut without cutting the level of services. He said he did not feel 2 cent on the tax rate was enough for the general operations budget, and should be at least 5 cents.

Councilman Boland said he felt 2 cents on the operational budget is reasonable and would not impose a burden on the taxpayers of the City of Asheville since there has not been a real tax increase in six or seven years.

Mayor Bissette said he felt the proposed budget, with a 2 cent increase in the operational budget, was reasonable and was requested by members of Council to be included in the budget to fund agencies and the contingency fund.

Sybil Bowers, Executive Director of the Historic Resources Commission, asked members of Council to give full support to the Historic Resources Commission budget, as submitted.

Mayor Bissette said members of Council were previously furnished copies of the resolution and it would not be read in its entirety unless there was a specific request to do so.

Councilman Michalove commented on the need for City Council to support the submission of a $27 million bond issue to the voters of the City of Asheville for streets, sidewalks, and storm drain improvements in the City of Asheville.

After discussion, Councilman Michalove moved to submit to the voters of the City of Asheville, in a referendum in September, a bond issue in the amount of $27 million and that advertisement be made accordingly. This motion was seconded by Councilman Boland.

Upon inquiry of Councilman Tisdale, the City Manager said it would cost the City of Asheville approximately $20,000 to hold a referendum in September.

After discussion, Councilman Michalove's motion to submit a $27 million bond issue to the voters of the City of Asheville failed on a vote of 4-3 with Mayor Bissette, Vice-Mayor Frank, Councilman Bratton, and Councilman Tisdale voting "no".

Upon motion of Councilman Bratton, seconded by Councilman Michalove, Resolution No. 86-103 was unanimously adopted.

Complete text of Resolution No. 86-103 will be found in Resolution Book No. 16 at Page 31.

Councilman Tisdale noted that he did not support putting a tax increase in the budget for 1986/87 unless the voters of the City of Asheville approve the bond referendum in September.

APPROVAL OF THE CONSENT AGENDA

9. Mayor Bissette said the following items are of a routine nature and they have been previously reviewed by the members of the City Council. Therefore, by unanimous vote to approve these items, the City Council may, pursuant to the procedures established in Ordinance No. 1008, adopt all of the items with one motion without the full reading and/or separate motion adopting each individual item. Upon the request of a citizen, a member of the City Council, and/or a member of the City staff, any single item scheduled for approval on the consent agenda may be considered separately.

Resolution No. 86-104

A. Consideration of a resolution authorizing the Mayor on behalf of the City of Asheville to execute an agreement with the Western North Carolina Regional Air Pollution Control Agency for the provision of inspection services with regard to the heating code of the City of Asheville.

HIGHLIGHTS: The City of Asheville has adopted the North Carolina State Building Code, Volume III,

Councilman Price moved for the adoption of Ordinance No. 1587. This motion was seconded by Councilman Bratton.

On a roll call vote of 7-0, Ordinance No. 1587 passed on first and final reading.

Complete text of Ordinance No. 1587 will be found in Ordinance Book No. 11 at page 20.

ORDINANCE NO. 1588 - BUDGET ORDINANCE AMENDMENT TO PROVIDE APPROPRIATION FOR PURCHASE OF A 1000 GPM PUMPER

7. Consideration was given to a budget ordinance amendment to provide appropriation for purchase of a 1000 GPM pumper.

Mayor Bissette said this budget amendment is to provide appropriation for the purchase of a 1000 GPM pumper for the Asheville Fire Department. He said the total cost will be $118,696.00. He said funding is from unearmarked Revenue Sharing Funds. He said this item was included in the Fiscal 1984-85 Capital Budget.

Mayor Bissette said copies of the ordinance were previously presented to members of Council and it would not be read in its entirety unless there was a specific request to do so.

Councilman Bratton moved for the adoption of Ordinance No. 1588. This motion was seconded by Vice-Mayor Frank.

On a roll call vote of 7-0, Ordinance No. 1588 passed on first and final reading.

Complete text of Ordinance No. 1588 will be found in Ordinance Book No. 11 at page 21.

RESOLUTION NO. 86-103 - RESOLUTION AUTHORIZING FILING AN APPLICATION WITH THE NORTH CAROLINA LOCAL GOVERNMENT COMMISSION RELATING TO A PROPOSED GENERAL OBLIGATION BOND ISSUE AND DESIGNATING THE AUTHORIZED REPRESENTATIVE OF THE CITY TO FILE THE APPLICATION

8. Consideration was given to a resolution authorizing filing of an application with the North Carolina Local Government Commission relating to a proposed general obligation bond issue and designating the authorized representative of the City to file the application.

Mayor Bissette said studies have indicated the need to improve City streets, sidewalks, the storm drainage system and the usefulness of a community arts and sciences facility. Article V, Section 4 of the North Carolina Constitution permits and North Carolina General Statutes, Chapter 159, Article 4 prescribe the procedures for the issuance of general obligation bonds. This resolution will designate the City's Finance Director to serve as the representative of the City to file the application for approval of the bonds with the Local Government Commission of the State of North Carolina.

D. Consideration of a motion relative to bids received for parking garage parking control equipment.

HIGHLIGHTS: Sealed bids were invited to furnish and install two (2) Automatic Parking Ticket Dispensers, four (4) Parking Gates, six (6) vehicle Detectors and four (4) gate arms for the Public Works Department, Civic Center Parking Garage Division. One (1) bid was received. It is recommended to award this purchase to Cincinnati Systems, Inc., Greenville, South Carolina.

FISCAL IMPACT: $18,020.00 - There are sufficient funds in the Public Works Department appropriations Account Code 50-432-0740.

E. Consideration of a motion to schedule a public hearing for a site plan of the proposed Forest Ridge Mobile Home Park to be located on Rock Hill Circle for July 8, 1986.

HIGHLIGHTS: The Asheville Planning and Zoning Commission at a meeting held May 14, 1986, reviewed a site plan of the proposed Forest Ridge Mobile Home Park to be located on Rock Hill Circle. The plan was prepared by Pankow Engineering Company for Mr. Frank Duckett, Developer, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of the project subject to: 1) agreement on entrance road; 2) placement of some fencing within the 50' buffer requirement; and 3) compliance with the Erosion Control Ordinance.

FISCAL IMPACT: None

Upon motion of Councilman Michalove, seconded by Councilman Price, the Consent Agenda was unanimously approved.

MOTION RELATIVE TO CONSENT JUDGEMENT - LAWSUIT BETWEEN NORTH CAROLINA DEPARTMENT OF TRANSPORTATION AND JOHN P. HOLT AND WIFE

10. At the request of the Acting Corporation Counsel, Councilman Michalove moved to authorize Corporation Counsel William F. Slawter to sign a Consent Judgement in a lawsuit between the North Carolina Department of Transportation and John P. Holt and wife, lawsuit involving right-of-way acquisition by the North Carolina Department of Transportation and the City's interest in collecting the City taxes on said property. This motion was seconded by Councilman Price and carried unanimously.

Heating, as the City of Asheville's Heating Code. Pursuant to N. C. Gen. Stat. sec. 160A-412, the City is responsible for enforcement of State and local laws relating to the installation of heating systems and air conditioning systems. This resolution will authorize the Mayor to execute an agreement between the City and the WNC Air Pollution Board authorizing the WNC Air Pollution Control Agency to perform the heating and air conditioning inspections.

FISCAL IMPACT: None

Resolution Book 16, Page 32 & 33

Resolution No. 86-105

B. Consideration of a resolution directing the City Clerk to investigate a petition received under G.S. 160A-58.1 to annex a non-contiguous area on Hwy. 70, now occupied by the Holiday Inn East.

HIGHLIGHTS: A petition requesting annexation of an area has been received. N. C. Gen. Stat, sec. 160A-58.2 provides that the sufficiency of the petition shall be investigated by the City Clerk before further annexation proceedings may take place. This resolution will direct the City Clerk to investigate the sufficiency of the petition and to certify to Council the result of his investigation.

FISCAL IMPACT: None

Resolution Book 16, Page 34

C. Consideration of a motion relative to bids received for a 1000 GPM Pumper with Accessories for the Asheville Fire Department.

HIGHLIGHTS: Sealed bids were invited to furnish a 1000 GPM Pumper with accessories for the Asheville Fire Department. Forty (40) bids were mailed; however, only two (2) bids were received. It is recommended that the award be made to the low bidder, American Eagle Fire Apparatus/Mark VI, Asheville, North Carolina. The low bidder meets all the bid specifications.

FISCAL IMPACt: $118,695.80 - Funds for this purchase are from the Fire Department's appropriations account code 10-470-0740-477.

RESOLUTION NO. 86-106 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A NEW LEASE AGREEMENT BY AND BETWEEN THE CITY OF ASHEVILLE AND THE STATE OF NORTH CAROLINA

11. Consideration was given to a resolution authorizing the Mayor to execute a new lease agreement by and between the City of Asheville and the State of North Carolina.

Mayor Bissette said by Resolution No. 85-158, dated September 10, 1985, the City of Asheville authorized the Mayor to execute a lease agreement by and between the City of Asheville and the State of North Carolina for a tract of land lying and being in Limestone Township. He said changes have been made to the lease agreement and this resolution would authorize the Mayor to sign a new lease agreement by and between the City of Asheville and the State of North Carolina for said property.

Upon motion of Councilman Michalove, seconded by Vice-Mayor Frank, Resolution No. 86-106 was unanimously adopted.

Complete text of Resolution No. 86-106 will be found in Resolution Book No. 16 at Page 35.

CLAIMS - C & H USED CARS (WATER) - EARL SPROUSE (WATER) - GRACE REVELL (SANITATION) - ELLA MAE YOUNG (SANITATION) - JAMES DUTTON (WATER) - STEVE TAPPE (WATER)

12. The City Manager presented claims received from C & H Used Cars, Earl Sprouse, Grace Revell, Ella Mae Young, James Dutton and Steve Tappe.

Mayor Bissette referred the claims to the Corporation Counsel for investigation and recommendation.

LAWSUITS - HOUSING AUTHORITY FOR THE CITY OF ASHEVILLE VS. CHRISTA MICHELLE REEVES (CONDEMNATION LAWSUIT - HAYWOOD/WALL STREET REDEVELOPMENT AREA

13. The City Manager noted that the City of Asheville was served with a lawsuit involving the Housing Authority of the City of Asheville vs. Christa Michelle Reeves regarding condemnation lawsuit - Haywood/Wall Street Redevelopment area.

Mayor Bissette referred the lawsuit to the Corporation Counsel for investigation and recommendation.

ADJOURNMENT

Upon motion of Councilman Tisdale, seconded by Councilman Boland, the meeting adjourned at 8:35 p.m.

MAYOR

CITY CLERK

Councilman Boland commented that he was concerned about the requested increase for the Historic Resources Commission. He said it was his understanding that if the increase is not granted for the Historic Resources Commission budget, the Executive Director's position ould be cut back to a part-time position.

Councilman Tisdale said he would not support the 2¢ tax rate increase because he feels costs can be cut by internal controls and reduce the need for a tax increase, and he said the 7¢ tax increase for capital improvements should be placed in the budget only if voters approve the September referendum. He said he felt the new City Manager had not had an opportunity to review the various departments regarding operations or their budgets. He said he felt Council members should give the new City Manager an opportunity to investigate the departments and their operations before instituting a tax rate increase. He said he felt internal controls within the City government could be improved substantially, such as the use of City vehicles and energy controls. He said he was concerned about the 16% tax increase for the City residents, with the Asheville School Board requesting a supplemental tax, the County of Buncombe increasing their taxes, and the State officials imposing a gasoline tax increase. He said he had participated in campaigning for legalizing the sale of liquor in the City of Asheville, and it was promised, at that time, that the revenue earned from the legalized sale of liquor would be used to pave streets in the City of Asheville. He said he would have no objections, and would like for the City of Asheville to earmark all the revenue from the sale of liquor for the improvements of streets, sidewalks, and storm drainage.

MEMORANDUM TO: Doug Bean, City Manager

FROM: Bob Wurst, Director of Audit & Budget

DATE: June 24, 1986

SUBJECT: ABC REVENUES

ESTIMATED ABC REVENUE FOR 1985-86	$743,000
CITY SHARE 75%	557,250
COUNTY SHARE 25%	185,750

Approximately 17% of revenue comes from Liquor by the Drink or approximately $94,700 to the City. I can find no restriction on use of funding.

BW:m:sm

He said it also concerned him that the Powell Bill funds have been thrown in the general fund and they should be used strictly for streets, sidewalks, and storm drainage. He said he felt the City of Asheville should institute many cost savings programs. He questioned why incumbent members of Council had not supported a tax increase last year, during an election year, and is supporting a tax increase this year.

Tuesday - June 24, 1986 - 4:00 p.m.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Mary Lloyd Frank; Councilmen Wilhelmina Bratton, Walter R. Boland; Kenneth M. Michalove, Norma T. Price, and George M. Tisdale; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: None

INVOCATION

The invocation was given by Councilman Walter Boland.

APPROVAL OF THE MINUTES - JUNE 17, 1986 MEETING

1. Consideration was given to the approval of the minutes of the June 17, 1986, meeting.

Mayor Bissette said approval of the minutes would be reserved until next week.

PROCLAMATION - JULY 7-12, 1986 - "SOAP BOX DERBY WEEK"

2. Mayor Bissette read a proclamation proclaiming July 7-12, 1986, as "Soap Box Derby Week."

Mayor Bissette presented the proclamation to Carlie Rogers with the West Asheville Rotary Club.

ORDINANCE NO. 1589 - AN ORDINANCE ADOPTING THE BUDGET AND FIXING THE TAX RATE OF THE CITY OF ASHEVILLE FOR THE FISCAL YEAR 1986/87

3. Consideration was given to an ordinance adopting the budget and fixing the tax rate of the City of Asheville for the Fiscal Year 1986/87. Mayor Bissette said in accordance with the Local Government Budget and Fiscal Control Act, this ordinance will adopt the budget and fix the tax rate for 1986/87. The total budget is $29,310,026.00.

Mayor Bissette said the budget included a 2¢ tax increase for the operating budget, which will produce approximately $350,000 to be used to replace federal and state funding that has been cut back or terminated and to continue City services at their current level. He said the remaining 7¢ would be used for improvements to streets, sidewalks and storm drains either through repayment of a $20,000,000 bond debt if voters approve a Public Works bond referendum in September or to fund minor capital improvements if the referendum fails.

Mayor Bissette said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety unless there is a specific request to do so.

Councilman Frank said she supported the proposed budget because she felt there were many needs that need to be met within the City of Asheville due to cut-backs at the federal, state, and local levels. She also noted that ad valorem taxes is only one-third of the total budget in revenues.

Councilman Bratton said she supported the proposed budget since all members of Council have had the opportunity to review the entire proposed budget.

Councilman Boland, speaking in favor of the tax increase, said if the voters did not approve the bond referendum in September, a "pay as you go plan" will not meet the needs of the City of Asheville.

Mayor Bissette thanked the City Manager and the City staff for presenting a reasonable budget. He said he felt the increase in the operational budget and the 7¢ to be used for improvements of streets, sidewalks, and storm drainage was reasonable.

Councilman Boland moved for the adoption of Ordinance No. 1589. This motion was seconded by Councilman Bratton.

On a roll call vote of 6-1, Ordinance No. 1589 passed on first and final reading with Councilman Tisdale voting "No."

Complete text of Ordinance No. 1589 will be found in Ordinance Book No. 11 at page 222 - 225.

APPROVAL OF THE WATER AUTHORITY BUDGET

Mayor Bissette said the Water Authority requires the City of Asheville, the County of Buncombe, and the Water Authority to approve the Water Authority Budget.

After discussion, Councilman Michalove moved to approve the Water Authority budget for 1986/87 along with a request that the Water Authority consider amending the capital budget by appropriating $350,000 to the Sewer Maintenance Fund. This motion was seconded by Councilman Boland and carried unanimously.

Councilman Price said she was hopeful that the City of Asheville could meet with the County of Buncombe in the very near future to review the requested increase to the Chamber of Commerce, the Asheville Buncombe Community Relations Council, and the Historic Resources Commission.

Councilman Tisdale said he was very disappointed that the Inter-governmental Committee meeting between the City of Asheville and the County of Buncombe has not been scheduled, and it was his hope that Mayor Bissette could help influence the County officials to meet with the City Council members.

After discussion, Councilman Michalove moved that if the Inter-governmental Services Committee between the City of Asheville and the County of Buncombe has not met by July 15, members of Council adjourn the City Council meeting and go to the County Commissioners meeting and ask to be heard under other business. This motion was seconded by Councilman Bratton.

Councilman Bratton said she was concerned about the funding for outside agencies such as the Chamber of Commerce and the Asheville Buncombe Community Relations Council. She said she felt a joint meeting with the County of Buncombe and the City of Asheville is greatly needed to discuss the funding for these outside agencies pursuant to the Water Agreement.

Ralph B. Adams, of 75 Madison Avenue, spoke for the residents of "Precinct 3" stating that his group is definitely opposed to any of these tax increases, and they would also like to know, in detail, how the increased tax funds would be distributed in various precincts.

John Walsh spoke to members of Council offering Council an alternative to raising taxes, stating that he would work in the Water Quality Department for minimum wage.

Willa May Brown, of 93 White Fawn Drive, said she felt the bond issue is necessary, but that it is unfair for City property owners to pay the bond debt. She said she would like Council members to investigate other plans for raising revenues other than raising property taxes.

Captain John Best, retired police officer, spoke to members of Council, requesting that the retired police officers and their survivors be given a "cost of living" increase each year.

Mayor Bissette, responding to Captain Best, said the Police Pension Task Force Committee has been studying the Police Pension Program and should have a recommendation on the benefit package within the next month.

John Sorrells, of 201 East Chestnut Street, suggested that Council eliminate the Historic Resources Commission Executive Director and also the Commission. He said he felt the Historic Resources Commission is a bureaucracy, and it would save money to do away with the Executive Director position and the Commission.

Dorothy Arrowood, 126 Vance Crescent, also suggested that Council eliminate the Historic Resources Commission. She said historic properties designations are needed, but they should be on a volunteer basis.

Capt. Donald Maney, retired police officer, also requested that Council institute a "cost of living" increase each year for retired police officers and their survivors.

Councilman Michalove said he was concerned that the budget, as presented, would be using 1.4 million of the fund balance to balance the budget. He said by using the fund balance each year, the City would eventually not have a fund balance. He said the fund balance being used in this year's budget equates to 8.2¢ on the tax rate. He said it also concerned him that in the capital budget, there was no money appropriated for street paving when $1,000,000 was requested. He said before the bond referendum goes to the voters for approval, exact streets and specific information would be given to all citizens.

Councilman Price noted that the City Council has no other alternatives except to go to the City tax payers for revenues. She suggested that the citizens encourage their State legislators to support legislation to authorize municipalities to impose other taxes other than ad valorem taxes.

There being no discussion relative to the site plan, Vice- Mayor Frank closed the public hearing at 5:36 p.m.

Councilman Boland moved to approve the site plan and the proposed relocation of the Kinco Corporation to Lot #7 of the Emma Airport Associates Subdivision as recommended by the Planning and Zoning Commission. This motion was seconded by Councilman Price and carried unanimously.

PUBLIC HEARING - SITE PLAN - PROPOSED SIX UNIT APARTMENT - BARNARD AVENUE

5. A public hearing was held relative to the site plan of a proposed six-unit apartment to be located on Barnard Avenue.

Mayor Bissette said the Asheville Planning and Zoning Commission, at a meeting held May 14, 1986, reviewed the site plan of a proposed six-unit apartment to be located on Barnard Avenue. The site plan was prepared by Frank McGahren, Engineer, for Mark Carlson, Developer, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of the project subject to compliance with the Erosion Control Ordinance.

Mayor Bissette opened the public hearing at 5:40 p.m.

The City Clerk presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said the Planning and Zoning Commission had approved the proposed site plan subject to compliance with the Erosion Control Ordinance. He said in the initial review of the plan, there were some design problems relating to water running around the existing building; however, that has been resolved to the satisfaction of the Planning and Zoning Commission. He said the property is zoned R-3 Residential which would allow ten units. He said there is an existing structure on the property, and it is proposed that six more units would be added. He said access to the project would be from Barnard Avenue.

A discussion was held, instituted by Counciman Boland, relative to the narrowness of Barnard Avenue. Mr. Emrick said measures could be taken to alleviate any problems at the intersection of Edgewood Road and for the narrowness on Barnard Avenue.

A discussion was held relative to the future widening of Barnard Avenue, and it was noted that there was enough right-of-way and property to widen the road.

Mark Carlson, developer of the proposed project, spoke in support of the development presenting his credentials on past performance.

Councilman Michalove said he felt this particular area, near the University of North Carolina at Asheville is growing tremendously, and the Planning and Zoning Commission should be looking at the entire area relative to zoning.

Mayor Bissette closed the public hearing at 5:48 p.m.

Mayor Bissette commented that it is very difficult to get two governmental bodies together at this time of year since both are working on budgets for the coming year. He said he felt the County Commissioners are willing to meet with the City Council members. He commented that he had never been turned away to discuss any matter with individual County Commission members; however, he felt there was a need for more meetings between the City Council and County Commissioners to discuss numerous problems and issues that affect both the City of Asheville and the County of Buncombe. He said he felt Councilman Michalove's motion would be placing too much pressure on the County Commissioners.

Councilman Tisdale objected to threatening-type tactics and abstained from voting.

Councilman Boland agreed with Mayor Bissette and said he was hopeful that the meeting could be scheduled very soon.

On a voice vote of 5-2, Councilman Michalove's motion passed with Mayor Bissette and Councilman Boland voting "No."

PUBLIC HEARING - SITE PLAN - PROPOSED RELOCATION OF KINCO CORPORATION - EMMA AIRPORT ASSOCIATES SUBDIVISION

4. A public hearing was held relative to a site plan of the proposed relocation of Kinco Corporation to Lot #7 of the Emma Airport Associates Subdivision.

Mayor Bissette requested that he be excused from participation and vote on the issue relative to the Kinco Corporation since his firm represents this developer.

Councilman Tisdale moved to excuse Mayor Bissette from participation and vote on the matter relative to the site plan of the proposed relocation of the Kinco Corporation. This motion was seconded by Councilman Price and carried unanimously.

Vice-Mayor Frank said the Asheville Planning and Zoning Commission, at a meeting held May 14, 1986, reviewed a site plan of the proposed relocation of Kinco Corporation to Lot #7 of the Emma Airport Associates Subdivision. The plan was prepared by Ashley Engineering Company for Mr. Bob Kinser, Developer, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of the project provided that it has no access to Brickyard Road and compliance with the Erosion Control Ordinance.

Vice-Mayor Frank opened the public hearing at 5:34 p.m.

The City Clerk presented the notice to the public, setting the date and time for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said the Planning and Zoning Commission had recommended approval of the project provided that no access is made to Brickyard Road and there is compliance with the Erosion Control Plan. He said this development would house the Kinco Corporation. He said the Erosion Control Plan had been submitted to the State and approved.

documents in connection with the application and will authorize the City Manager to furnish additional information as the U.S. Department of Transportation may require in connection with the application.

Urban Mass Transportation Admin.	$ 562,936
City of Asheville	562,936
Total Operating Assistance	$1,125,872

Mayor Bissette opened the public hearing at 5:54 p.m.

The City Clerk presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Carl Ownbey, with the Asheville Transit Authority, said this is an annual operational assistance grant used for the operation of the Asheville Transit Authority.

Councilman Price noted that the Transit Authority subsidy has increased by $73,000 over the last year. She said she felt the increase was primarily due to the liability insurance increasing to $82,000. She said she felt the Asheville Transit Authority and members of Council should address the issue of the liability insurance problems.

Councilman Michalove said he felt the funding was necessary for the elderly and handicapped in the City of Asheville. He also noted that the federal funding equates to approximately 3¢ on the City tax rate.

Mayor Bissette closed the public hearing at 5:56 p.m.

Upon motion of Vice-Mayor Frank, seconded by Councilman Price, Resolution No. 86-107 was unanimously adopted.

Complete text of Resolution No. 86-107 will be found in Resolution Book No. 16 at page 36-37.

RESOLUTION NO. 86-108 - RESOLUTION AUTHORIZING THE EXECUTION OF N.C.D.O.T./ M.P.O. AGREEMENT WITH THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION PURSUANT TO RELEVANT SECTIONS OF THE URBAN MASS TRANSPORTATION ACT OF 1964 AS AMENDED

8. Consideration was given to a resolution authorizing the execution of N.C.D.O.T./M.P.O. Agreement with the North Carolina Department of Transportation pursuant to relevant sections of the Urban Mass Transportation Act of 1964, as amended.

Mayor Bissette said as of July 1, 1986, the North Carolina Department of Transportation will be administering all planning grants. The City of Asheville will no longer need to submit a grant application for the necessary planning funds. The amount needed will be awarded by what is detailed in the Planning Work Program (PWP) submitted each year in March. With this being the first year, some additional assurances (ones that were submitted to UMTA) will be sent with the signed contracts. After this year, all assurances will be incorporated by reference. The funding for these projects will still be from UMTA, N.C.D.O.T., and the City of Asheville.

Councilman Michalove moved to approve the site plan of the proposed six-unit apartment to be located on Barnard Avenue subject to the recommendations of the Planning and Zoning Commission. This motion was seconded by Vice-Mayor Frank and carried unanimously.

PUBLIC HEARING - AMENDING CHAPTER 30 OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE TO CREATE THE CHESTNUT-LIBERTY STREET AREA AS LOCAL HISTORIC DISTRICT

6. A public hearing was held relative to consideration of an ordinance amending Chapter 30 of the Code of Ordinances of the City of Asheville to create the Chestnut-Liberty Street area as local historic district.

Mayor Bissette said this ordinance would designate the Chestnut-Liberty Street neighborhood as a local historic district. Certificates of Appropriateness would be required by a property owner before any exterior rehabilitation or new construction can take place. At the June 11, 1986, Planning and Zoning meeting, the Commission did not take action on this designation; therefore, the public hearing will be opened and will be continued until July 15, 1986.

Mayor Bissette opened the public hearing at 5:50 p.m.

Verl Emrick, Director of Planning, said the Planning and Zoning Commission had several questions relative to the designation and has scheduled a workshop for the neighborhood residents and the Historic Resources Commission for June 24, 1986, at 1:00 p.m. in the First Floor Conference Room.

Dorothy Arrowood, 126 Vance Crescent Ext., spoke in opposition to the designation of the Chestnut-Liberty Street area as a local historic district. She reiterated that historic preservation should be on a volunteer basis.

Vice-Mayor Frank moved to continue the public hearing without further advertisement until July 15, 1986. This motion was seconded by Councilman Michalove and carried unanimously.

PUBLIC HEARING - FILING APPLICATION FOR GRANT UNDER URBAN MASS TRANSPORTATION ACT OF 1964 AS AMENDED (OPERATIONAL ASSISTANCE GRANT)

RESOLUTION NO. 86-107 - RESOLUTION AUTHORIZING THE FILING OF AN APPLICATION WITH THE DEPARTMENT OF TRANSPORTATION, UNITED STATES OF AMERICA FOR A GRANT UNDER THE URBAN MASS TRANSPORTATION ACT OF 1964 AS AMENDED

7. A public hearing was held relative to the filing of an application with the Department of Transportation, United States of America, for a grant under the Urban Mass Transportation Act of 1964, as amended.

Mayor Bissette said the Secretary of Transportation is authorized to make grants for Mass Transportation projects. The contract for financial assistance will impose certain obligations upon the applicant, including the provision by it of the local share of the project costs. It is required by the U.S. Department of Transportation in accord with the provisions of Title VI of the Civil Rights Act of 1964, that in connection with the filing of an application for assistance under the Urban Mass Transportation Act of 1964, as amended, the applicant give assurance that it will comply with Title VI of the Civil Rights Act of 1964 and the U.S. Department of Transportation requirements. This resolution will authorize the Mayor to execute the necessary

Mayor Bissette said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety unless there was a specific request to do so.

Upon motion of Councilman Boland, seconded by Vice-Mayor Frank, Resolution No. 86-109 was unanimously adopted.

Complete text of Resolution No. 86-109 will be found in Resolution Book No. 16 at page 40.

RESOLUTION NO. 86-110 - RESOLUTION AUTHORIZING THE FILING OF A GRANT AMENDMENT WITH THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION FOR ADDITIONAL CAPITAL IMPROVEMENT FUNDS

10. Consideration was given to a resolution authorizing the filing of a grant amendment with the North Carolina Department of Transportation for additional capital improvement funds.

Mayor Bissette said the North Carolina Department of Transportation is authorized to make grants and amendments for mass transit projects. The City of Asheville has made a grant application amendment to the United States Department of Transportation, Urban Mass Transportation Administration. The federal share will be 80% of the net project cost and the City of Asheville will provide 10% of the net project costs. This resolution will authorize the Mayor to execute and file this grant amendment and any amendment agreements.

Federal share	$769,600
State share	96,200
Local share	96,200
Total cost	$962,000

Mayor Bissette said members of Council were previously furnished copies of the resolution, and it would not be read in its entirety unless there a specific request to do so.

Upon motion of Councilman Boland, seconded by Vice-Mayor Frank, Resolution No. 86-110 was unanimously adopted.

Complete text of Resolution No. 86-110 will be found in Resolution Book No. 16 at page 41.

RESOLUTION NO. 86-111 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT ON BEHALF OF THE CITY OF ASHEVILLE WITH THE ASHEVILLE CHAPTER OF THE AMERICAN RED CROSS

11. Consideration was given to a resolution authorizing the Mayor to execute an agreement on behalf of the City of Asheville with the Asheville Chapter of the American Red Cross.

Mayor Bissette said Section 504 of the Rehabilitation Act of 1974 and Section 16(a) of the Urban Mass Transportation Act of 1964, as amended, require that the City provide public transportation services within the corporate City limits to qualified handicapped individuals, including wheelchair users and semi-ambulatory persons. Resolution 86-57 adopted April 8, 1986, the City of Asheville contracted with the American Red Cross to provide transportation for handicapped individuals. This resolution will authorize the Mayor to execute an agreement to continue to provide transportation for qualified handicapped individuals.

Urban Mass Transportation Admin.	$25,600
N.C.D.O.T.	3,200
Total Planning Funds	$32,000

Carl Ownbey, with the Asheville Transit Authority, noted that this was a yearly planning grant from the North Carolina Department of Transportation.

Councilman Michalove noted that the funding received equates to approximately 5¢ on the tax rate.

Mayor Bissette said members of Council were previously furnished copies of the resolution and it would not be read in its entirety unless there was a specific request to do so.

Upon motion of Vice-Mayor Frank, seconded by Councilman Michalove, Resolution No. 86-108 was unanimously adopted.

Complete text of Resolution No. 86-108 will be found in Resolution Book No. 16 at page 38 - 39.

PUBLIC HEARING - AMENDMENT TO CURRENT CAPITAL GRANT CONTRACT FOR URBAN MASS TRANSPORTATION ADMINISTRATION UNDER SECTION 9 OF THE URBAN MASS TRANSPORTATION ACT OF 1964 AS AMENDED

RESOLUTION NO. 86-109 - RESOLUTION AUTHORIZING THE FILING OF A GRANT AMENDMENT WITH THE DEPARTMENT OF TRANSPORTATION, UNITED STATES OF AMERICA, UNDER THE URBAN MASS TRANSPORTATION ACT OF 1964 AS AMENDED

9. A public hearing was held relative to amending the current capital grant contract for the Urban Mass Transportation Administration under Section 9 of the Urban Mass Transportation Act of 1964, as amended.

Mayor Bissette said the Secretary of Transportation is authorized to make grants and amendments for mass transportation projects. The contract amendment will impose certain obligations upon the applicant, including the provision of the local share of the project costs. This resolution will authorize the Mayor to file this grant amendment and execute any grant amendment agreements.

Federal share	$769,600
State share	96,200
Local share	96,200
Total cost	$962,000

The City Clerk presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Mayor Bissette opened the public hearing at 6:01 p.m.

Carl Ownbey, with the Asheville Transit Authority, said this amendment would allow for the purchase of additional radios and construction work at the Asheville Transit Authority.

Mayor Bissette closed the public hearing at 6:03 p.m.

Resolution No. 86-112

A. **Consideration of a resolution supporting the Western North Carolina Soap Box Derby and authorizing the closing of certain streets in the City of Asheville for said event.**

HIGHLIGHTS: The WNC Soap Box Derby Association, an affiliate of the West Asheville Rotary Club, is sponsoring a Soap Box Derby for participants in Western North Carolina on July 12, 1986. The West Asheville Rotary Club has requested that College Street between Spruce and Oak Streets be closed between 10:00 a.m. and 2:00 p.m. on June 28, 1986, (Practice Run Date) and July 12, 1986 (Race Date).

Resolution Book No. 16, page 70.

Resolution No. 86-113

B. **Consideration of a resolution authorizing the Mayor to sign an agreement with the Skyland Volunteer Fire Department, Inc., for fire protection services in the Airport Annexation Area.**

HIGHLIGHTS: On April 2, 1979, the area surrounding the Asheville Airport was annexed to the City of Asheville. This resolution will authorize the Mayor to enter into an agreement with the Skyland Volunteer Fire Department, Inc., to furnish necessary men and equipment to provide primary fire protection services for the Airport annexation area.

FISCAL IMPACT: Skyland Volunteer Fire Department, Inc., will provide the service for a fee of $4,800.00

Resolution Book No. 16, page 71.

Resolution No. 86-114

C. **Consideration of a resolution authorizing the Mayor to execute on behalf of the City of Asheville an amendment to the agreement by and between the City of Asheville and the Skyland Volunteer Fire Department for the provision of fire protection service to the newly annexed noncontiguous area located near the intersection of Long Shoals Road and Ledbetter Road.**

HIGHLIGHTS: This resolution will authorize the Mayor to execute, on behalf of the City, an amendment to the agreement between the City of Asheville and the Skyland Volunteer Fire Department to provide fire protection services for successive one year renewals unless either party shall give the other party written notice of its desire to modify or terminate the agreement. This is for a noncontiguous area near the intersection of Long Shoals Road and Ledbetter Road.

FISCAL IMPACT: The annual fee for the period July 1, 1986, through June 30, 1987, shall be based on the Skyland Fire District Tax amount of $.08 per $100.00 valuation of the property. FY 86-87 costs for the contracts $90.40 based on present value of $113,000.00 Funds are available in the general operating budget.

The amount is estimated at $19,700 to be advanced in quarterly payments of $4,925. Funds for this agreement is included in the fiscal year budget for Asheville Transit Authority operating funds.

Carl Ownbey, with the Asheville Transit Authority, said the amount of funds to be provided for the 86-87 contract with the American Red Cross is 3.5% of the federal funds received from the Urban Mass Transportation Administration.

Mayor Bissette said members of Council were previously furnished copies of this resolution, and it would not be read in its entirety unless there was a specific request to do so.

Upon motion of Councilman Michalove, seconded by Vice-Mayor Frank, Resolution No. 86-111 was unanimously adopted.

Complete text of Resolution No. 86-111 will be found in Resolution Book No. 16 at page 42.

ORDINANCE NO. 1590 - BUDGET ORDINANCE AMENDMENT FOR UMTA CAPITAL BUDGET

12. Consideration was given to a budget ordinance amendment for UMTA capital budget.

Mayor Bissette said this budget ordinance amendment is to provide for radios, passenger counters and parts room. An additional $13,000 local match is included in fiscal 1986/87 capital budget.

Carl Ownbey, with the Asheville Transit Authority, said this budget amendment would allow the City's portion of the UMTA capital funds to be used for radios, passenger counters, and parts room.

Mayor Bissette said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety unless there was a specific request to do so.

Vice-Mayor Frank moved for the adoption of Ordinance No. 1590. This motion was seconded by Councilman Price.

On a roll call vote of 7-0, Ordinance No. 1590 passed on first and final reading.

Complete text of Ordinance No. 1590 will be found in Ordinance Book No. 11 at page 26.

APPROVAL OF CONSENT AGENDA

13. Mayor Bissette said the following items are of a routine nature, and they have been previously reviewed by the members of the City Council. Therefore, by unanimous vote to approve these items, the City Council may, pursuant to the procedures established in Ordinance No. 1008, adopt all of the items with one motion without the full reading and/or separate motion adopting each individual item. Upon the request of a citizen, a member of the City Council, and/or a member of the City staff, any single item scheduled for approval on the consent agenda may be considered separately.

C. Consideration of a motion to schedule a public hearing for the proposed Redevelopment Plan of Wall Street for July 8, 1986.

HIGHLIGHTS: The Asheville Planning and Zoning Commission at a meeting held April 9, 1985, reviewed the proposed Redevelopment Plan of Wall Street. The site plan was submitted by Glave-Newman-Anderson, of Richmond, Virginia, Architects, for Sunbelt Historic Properties, Winston-Salem, N.C., Developer, in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of Phase I, subject to compliance with the Erosion Control Ordinance, and to approve the concept of Phase II, including the parking deck.

H. Consideration of a motion scheduling a public hearing relative to amending Ordinance No. 322, "an ordinance providing for the zoning of the City of Asheville", as amended to provide buffering requirements for July 8, 1986.

HIGHLIGHTS: The Asheville Planning and Zoning Commission on March 19, 1986, reviewed a buffering amendment to the zoning ordinance proposed by the Asheville Tree Commission. After some modifications, the Commission voted to recommend approval of the amendment to City Council.

Upon motion of Councilman Michalove, seconded by Councilman Price, the Consent Agenda was unanimously adopted.

MOTION AUTHORIZING MAYOR TO SIGN AN AMENDMENT TO THE MEMORANDUM OF UNDERSTANDING RELATIVE TO WALL STREET

14. At the request of the Corporation Counsel, Councilman Price moved to authorize the Mayor to sign an amended Memorandum of Understanding with Sunbelt or Southeastern Historic Properties relative to the development of Wall Street extending the Memorandum of Understanding for 90 days. This motion was seconded by Councilman Bratton and carried unanimously.

ORDINANCE NO. 1591 - AN ORDINANCE AMENDING SECTION 28-81.2 (B) OF ARTICLE IV, SPEED REGULATIONS, CHAPTER 28 OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE (GROVEWOOD ROAD)

15. Consideration was given to an ordinance amending Section 28-81.2 (B) of Article IV, Speed Regulations, Chapter 28 of the Code of Ordinances of the City of Asheville.

Mayor Bissette said this ordinance would provide for a 20 mph speed limit on Grovewood Road.

Councilman Price moved for the adoption of Ordinance No. 1591. This motion was seconded by Councilman Michalove.

On a roll call vote of 7-0, Ordinance No. 1591 passed on first reading.

Vice-Mayor Frank moved to suspend the rules and proceed to the second reading of Ordinance No. 1591. This motion was seconded by Councilman Michalove and carried unanimously.

Resolution Book No. 16, page 72.

Resolution No. 86-115

D. **Consideration of a resolution authorizing the City Manager to execute an agreement by and between the City of Asheville and Dr. A. Thomas Hollingsworth for consultant services.**

HIGHLIGHTS: This resolution will authorize the City Manager to enter into a contract with Dr. A. Thomas Hollingsworth to conduct training in objectives-based performance appraisal for up to 150 employees.

FISCAL IMPACT: Total cost will be $6,200.00. Each department will be billed for the training of its employees at a rate of $41.33 per employee. No additional appropriation is needed to cover the training costs.

Resolution Book No. 16, page 73.

E. **Consideration of a motion relative to bids received for one (1) computer aided drafting/design (CAD) system.**

HIGHLIGHTS: Sealed bids were invited to furnish one (1) Computer Aided Drafting/Design (CAD) system for the Finance Department, City Engineering Division. Alternate bids were invited on an annual maintenance agreement, digitizer, tape backup system and an uninterruptible power supply. Five (5) bids were received; however, MAG Incorporated and Computerland of Asheville bids were disqualified and returned due to improper bid deposit. It is recommended to award this purchase to the low bidder, Entre Computer Center, Asheville, North Carolina.

FISCAL IMPACT: $15,977.50 - Funds for the purchase of this equipment are available in the Finance Department, City Engineering Division appropriations account codes 50-722-0740 and 43-722-0740-490.

F. **Consideration of a motion to schedule a public hearing to rezone property located at 1616 Patton Avenue from R-2 Residential District to CH Commercial Highway District for July 15, 1986.**

HIGHLIGHTS: The Asheville Planning and Zoning Commission at a meeting held June 11, 1986, considered the petition of Mr. Bobby Barbour that a portion of Lot 1, Sheet 24, Ward 5, be rezoned from R-2 Residential District to CH Commercial Highway District. The property is located at 1616 Patton Avenue. After review and discussion, the Commission voted to recommend that the petition be denied and that a portion of Lot 1, Sheet 24, Ward 5, be rezoned from CH to R-2 Residential District to provide a buffer on the eastern property line of Lot 1. However, the petitioner has appealed Planning & Zoning Commission's decision and has asked that a public hearing be scheduled so the rezoning matter can be heard before Council.

Upon inquiry of Councilman Tisdale, Mr. Swaim said he had talked to individual members of the Chamber of Commerce and the Tourism Development Association and felt these individual members would support stricter sign control.

Councilman Tisdale suggested that this group present their presentation to the Chamber of Commerce and the Buncombe County Board of Commissioners.

Suzanne Yeager, of 21 Butler Mountain, representing Hill-Gatewood Realtors spoke in support of stricter and tighter sign control and is in complete support of the request for a moratorium on the erection of additional billboards and other off-premise advertising signs until such time tighter controls on signs can be passed into law.

Councilman Bratton, noting that the group represents the coalition of the Carolina Coalition for Scenic Beauty, requested that she be furnished literature on this organization.

Councilman Boland suggested that the Planning Department consider a logo sign program for the City limits of the City of Asheville.

Mayor Bissette thanked the group for presenting their request to the City of Asheville.

ADJOURNMENT

Upon motion of Councilman Boland, seconded by Councilman Michalove, the meeting adjourned at 6:50 p.m.

MAYOR

CITY CLERK

On a roll call vote of 7-0, Ordinance No. 1591 passed on second reading.

Councilman Michalove moved to suspend the rules and proceed to the third and final reading of Ordinance No. 1591. This motion was seconded by Vice-Mayor Frank and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1591 passed on third and final reading.

Complete text of Ordinance No. 1591 will be found in Ordinance No. 11 at page 27.

CLAIMS - LANA TUTTLE (WATER)

The City Manager presented a claim received from Lana Tuttle.

Mayor Bissette referred the claim to the Corporation Counsel for investigation and recommendation.

LAWSUIT - RONNIE LEE BROCKWELL (BODILY INJURY - FALL IN WATER METER)

The City Manager said the City of Asheville was served with a lawsuit involving Ronnie Lee Brockwell relative to a bodily injury from a fall in a water meter.

Mayor Bissette referred the lawsuit to the Corporation Counsel for investigation and recommendation.

PRESENTATION RELATIVE TO SIGN ORDINANCE - LIN BROWN

Lin Brown, of 62 Macon Avenue, spoke to members of Council representing a large group of concerned citizens relative to adequate control of on and off-premise signs within the City of Asheville. She said the group is also concerned about the number of billboards in the City.

Mrs. Brown presented petitions, containing approximately 2,000 signatures which read as follows "We, the undersigned, petition the Asheville City Council and the Buncombe Commissioners to enact a moratorium on the erection of additional billboards and other off-premise advertising signs in Asheville and Buncombe County until such time that tighter controls on such signs can be passed into law, in order to protect our very special roadside scenery that contributes so much to our present quality of life and upon which our tourism economy depends.

Stan Griffin, of Elk Mountain Scenic Highway and owner of a building on All Souls Crescent, spoke in support of a stricter sign ordinance. He said he was also speaking on behalf of the Merchants Association of Biltmore Village.

Doug Swaim, of 296 Montford Avenue, spoke to members of Council relative to stricter sign control. He said the Transportation Improvement Program Plan for the State of North Carolina has scheduled the implementation of a inter-state logo program for signs. He said this program should be under construction within the next six years. He also spoke in favor of prohibiting billboards on limited access highways.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice Mayor Mary Lloyd Frank; Councilmen Wilhelmina Bratton, Walter R. Boland, Kenneth M. Michalove, Norma T. Price, and George M. Tisdale; Corporation Counsel William F. Slawter, City Manager Douglas O. Bean, and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: None

PLEDGE OF ALLEGIANCE/INVOCATION

Councilman Tisdale, in observance of the birthday of our Nation, led the Council and audience in saying the Pledge of Allegiance. The invocation was then given by Councilman Tisdale.

APPROVAL OF MINUTES - JUNE 17, 1986

1. Consideration was given to the approval of the minutes of the June 17, 1986 meeting.

Mayor Bissette announced approval of the minutes, as amended.

APPROVAL OF MINUTES - JUNE 24, 1986

2. Consideration was given to the approval of the minutes of the June 24, 1986 meeting.

Mayor Bissette announced approval of the minutes, as amended.

PROCLAMATION - JULY, 1986 - RECREATION AND PARK MONTH

2-a. Mayor Bissette read a proclamation proclaiming the month of July, 1986 as "Recreation and Park Month" and presented the proclamation to Ray L. Kisiah, Director of Parks, Recreation and Public Facilities.

Mr. Kisiah said observance of Recreation and Park Month has been traditionally held in June every year. However, due to schools closing later each year, the observance has now been moved to the month of July. He said Parks and Recreation Month will be observed in the City of Asheville by special events such as Shindig-On-The-Green, July 4th activities on City/County Plaza, the Tennis Tournament, etc. He said he would provide the Council with a complete schedule of events and invited them to attend.

RESOLUTION NO. 86-... - RESOLUTION AUTHORIZING THE MAYOR TO APPLY FOR CIVIL WORKS FUNDS FOR FRENCH BROAD RIVERFRONT RECREATIONAL PLANNING

3. Mayor Bissette announced that in order to give staff time to answer questions from members of Council which arose during the Pre-Council work session, consideration of this resolution would be postponed until next week.

agreement and any amendments by and between the City of Asheville and Sunbelt Roofing Services, Inc. He said the total estimated contract sum is $42,500.00.

Mayor Bissette said members of Council were previously furnished copies of the resolution and it would not be read in its entirety unless there was a specific request to do so.

Upon motion of Councilman Tisdale, seconded by Councilman Michalove, Resolution No. 86-117 was unanimously adopted.

Complete text of Resolution No. 86-117 will be found in Resolution Book No. 16, page 73.

RESOLUTION NO. 86-...- RESOLUTION FIXING DATE OF PUBLIC HEARING ON QUESTION OF ANNEXATION PURSUANT TO G. S. 160A-58.2, AS AMENDED (HOLIDAY INN/EAST)

6. Mayor Bissette announced that consideration of this resolution would be postponed until next week due to questions which arose during the Pre-Council work session.

PUBLIC HEARING SCHEDULED - FINAL SITE PLAN - PACK PLAZA PROJECT

7. Consideration was given to a motion scheduling a public hearing relative to the final site plan for Pack Plaza Project for July 22, 1986.

Mayor Bissette said the Asheville Planning and Zoning Commission and the Asheville City Council approved the site plan for Pack Plaza in concept in October, 1984. Approval of "concept" was given primarily because ownership of all properties contained within the site had not been transferred to the developer. The acquisition and transfer of property has been completed and the developer is ready to proceed. He said all financial and grant funding has previously been reviewed and approved by Asheville City Council.

Councilman Boland moved to schedule a public hearing on the final site plan for Pack Plaza for July 22, 1986. This motion was seconded by Councilman Price and carried unanimously.

REPORT - CITY COUNCIL INTERGOVERNMENTAL SERVICES COMMITTEE MEETING

Vice Mayor Frank said the City Council Intergovernmental Services Committee had met with representatives of the County Commissioners today. She said during the meeting the group went over a list of mutual concerns and set the next meeting date for Tuesday, August 5, 1986, at 12:30 p.m. in the Council Conference Room.

Councilman Bratton said funding of the Asheville-Buncombe Community Relations Council is a very important issue and lack of funding can hurt the economic base. She said she feels very strongly about this issue and requested that the Intergovernmental Services Committee put this item on the top burner for discussion with representatives of the County Commissioners.

RESOLUTION NO. 86-116-RESOLUTION REQUESTING THE HOUSING AUTHORITY TO ADOPT A RESOLUTION OF INTENT TO ISSUE URBAN REDEVELOPMENT BONDS IN AN AMOUNT NOT TO EXCEED $1,080,000 FOR THE OLD PENNEY'S BUILDING

4. Consideration was given to a resolution requesting the Housing Authority to adopt a Resolution of Intent to issue Urban Redevelopment Bonds in an amount not to exceed $1,080,000 for the Old Penney's Building Project.

Mayor Bissette said this resolution requests the Housing Authority to adopt a resolution of intent to issue Urban Redevelopment Bonds for the renovation of the Old Penney's Building located at the corner of Haywood Street and Walnut Street. He said the proposed redevelopment project is estimated to cost $1,350,000, resulting in an increase valuation for ad valorem taxes.

David Matney, representing the Developers - Marshall N. Kanner, Russell Thomas, Ben Kanner and Donald J. Kipnis, said the developers plan to renovate both the interior and exterior of the building. He said there would be a restaurant on the first floor, retail shops on the second floor, offices on the third through sixth floors, and luxury condominiums units on the top floor. He requested Council to adopt the resolution.

Upon inquiry of Ralph Bishop, Mr. Matney said the old Penney's building is currently owned by Robert and Marilyn Miller, and that acquisition of the building had nothing to do with eminent domain.

Mayor Bissette told Mr. Bishop He said Redevelopment Bonds do not obligate the City of Asheville in any way.

Mayor Bissette said members of Council were previously furnished copies of the resolution and it would not be read in its entirety unless there was a specific request to do so.

Upon motion of Councilman Frank, seconded by Councilman Boland, Resolution No. 86-116 was unanimously adopted.

Complete text of Resolution No. 86-116 will be found in Resolution Book No. 16, page 72.

RESOLUTION NO. 86-117 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE ON BEHALF OF THE CITY OF ASHEVILLE AN AGREEMENT BY AND BETWEEN THE CITY AND SUNBELT ROOFING SERVICES, INC. FOR RE-ROOFING OF STEPHENS LEE RECREATION CENTER

5. Consideration was given to a resolution authorizing the Mayor to execute on behalf of the City of Asheville an agreement by and between the City and Sunbelt Roofing Services, Inc. for re-roofing of Stephens Lee Recreation Center.

Mayor Bissette said the existing roof on Stephens Lee Recreation Center has deteriorated and requires replacing. It is recommended that the contract be awarded to Sunbelt Roofing Services, Inc., as the lowest responsible bidder. This resolution will authorize the Mayor to execute an

Councilman Price said this request has been made before, but the area in question, is under the control of the N. C. Department of Transportation.

Mayor Bissette requested that the City Manager check into the reasons for the speed limit and obtain recommendations on the requested change.

RALPH BISHOP - POLICE PENSION RECORDS AND GAMBLING

Ralph Bishop addressed the Council on his difficulty in obtaining Police Pension records for J. J. Moulds.

Mr. Bishop also asked why the City Manager can't enforce gambling in the City of Asheville.

ADJOURNMENT

Upon motion of Vice Mayor Frank, seconded by Councilman Price, the formal meeting was adjourned at 4:43 p.m. to continue the Pre-Council work session.

MAYOR

CITY CLERK

RESOLUTION NO. 86-118 - RESOLUTION ENDORSING NORTH CAROLINA HOUSE OF REPRESENTATIVES VERSION OF ADDITIONAL ONE-HALF CENT LOCAL OPTION SALES TAX HOUSE BILL 1542

Councilman Michalove said the North Carolina House of Representatives passed a one-half cent sales tax without any restrictions and sent the bill to the Senate. He said Senator Winner was sponsoring legislation that would require that counties use 60 percent of their additional funds for school construction and that cities use 40 percent of their share of the tax for water and sewer facilities.

Upon motion of Councilman Michalove, seconded by the entire Council, Resolution No. 86-118 was unanimously adopted, which asked the North Carolina Senate to adopt a one-half cent sales tax without any restrictions on its use.

Complete text of Resolution No. 86-118 will be found in Resolution Book No. 16, page 74.

COUNCILMAN BRATTON - WALTON STREET POOL

Councilman Bratton invited the Council to a "bring your own bag" lunch on Tuesday, July 8, 1986, at 12:00 Noon, to view first hand the poor condition of the Walton Street Pool and Park.

Mayor Bissette asked the City Manager to look into conditions described by Councilman Bratton, and asked that all of the Council make an effort to be at the Walton Street Pool on Tuesday.

WATER AGREEMENT - COMMENTS BY COUNCILMAN MICHALOVE

Councilman Michalove said the Water Agreement was a subject of concern to the County Commissioners. He inquired as to whether this subject was brought up at the Intergovernmental Services Committee Meeting, and he was advised that it was not. He said he hoped the Council could have a joint work session with the Commissioners in the very near future.

CLAIMS - ELAINE CULBERSON (STREETS), MARY W. PARTON (SANITATION), JOHN D. LOFANO (TRAFFIC ENGINEERING)

The City Manager presented claims received from Elaine Culberson (Streets), Mary W. Parton (Sanitation), and John D. Lofano (Traffic Engineering).

Mayor Bissette referred the claims to the Corporation Counsel for investigation and recommendation.

DEWEY BROWN - REQUEST TO REDUCE SPEED LIMIT - PATTON AVENUE

Dewey Brown, 18 Powers Drive, West Asheville, (255-7579) said there are three different speed limits in a section of Patton Avenue in West Asheville. He requested that Council increase the speed limit on Patton Avenue - Johnson Boulevard to the Pisgah Fish Camp - from 35 mph to 50 mph. He said when people get a ticket in this area, they not only have to pay the ticket, but their insurance is also increased for three (3) years.

Councilman Bratton opened the public hearing at 4:15 p.m.

The City Clerk presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said the Asheville Planning and Zoning Commission had recommended approval of the project to be constructed at the intersection of Orange Street and Liberty Street subject to relocating the entrance drive 50' from intersection of Orange and South Liberty Street and compliance with the Erosion Control Ordinance. He said the property is zoned R4 Residential District and the proposed use is for a professional office building. He said all requirements for the group development have been met.

John Broadbooks and Jan Weigman, architects for the project, answered questions from members of Council relative to the proposed project.

Tim Warner, of 87 North Liberty Street, spoke in support of the proposed project, stating that the design would blend with the neighborhood. He said the proposed project would be constructed on the largest open land available in this particular area. He said the residents in the area are particularly interested in what is going on and the proposed Chestnut-Liberty Street Historic District.

Robert Dungon, of 89 North Liberty Street, said he felt vacant space downtown should be used before areas in residential neighborhoods for professional office buildings. He also expressed concern relative to the problems of traffic flow in the area and requested that the City staff investigate the need for a red light at Broad and Liberty Street, and also at Liberty and Orange Street.

Councilman Bratton closed the public hearing at 4:25 p.m.

Councilman Michalove moved for the approval of the site plan of the Orange Street Professional Park subject to the recommendations of the Planning and Zoning Commission. This motion was seconded by Councilman Tisdale and carried unanimously.

PUBLIC HEARING - REDEVELOPMENT PLAN OF WALL STREET

4. A public hearing was held relative to the proposed Redevelopment Plan of Wall Street.

Mayor Bissette said the Asheville Planning and Zoning Commission, at a meeting held April 9, 1986, reviewed the proposed Redevelopment Plan of Wall Street. The site plan was submitted by Glave-Newman-Anderson, of Richmond, Virginia, Architects, for Sunbelt Historic Properties, Winston-Salem, N.C., Developer, in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of Phase I, subject to compliance with the Erosion Control Ordinance, and to approve the concept of Phase II, including the parking deck.

Mayor Bissette opened the public hearing at 4:29 p.m.

The City Clerk presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Tuesday - July 8, 1986 - 4:00 p.m.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Councilmen Wilhelmina Bratton, Walter R. Boland; Kenneth M. Michalove, and George M. Tisdale; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Vice-Mayor Mary Lloyd Frank and Councilman Norma Price.

INVOCATION

The invocation was given by Mayor Louis Bissette.

APPROVAL OF THE MINUTES - JULY 1, 1986 MEETING

1. Consideration was given to the approval of the minutes of the July 1, 1986, meeting.

Mayor Bissette announced the approval of the minutes as submitted.

PROCLAMATION - JULY 6-12, 1986 - "THERAPEUTIC RECREATION WEEK"

2. Mayor Bissette read a proclamation proclaiming July 6-12 as "Therapeutic Recreation Week."

Mayor Bissette presented the proclamation to Gary Crite, Therapeutic Recreator at Appalachian Hall.

PUBLIC HEARING - SITE PLAN OF THE ORANGE STREET PROFESSIONAL PARK

3. A public hearing was held relative to the site plan of the Orange Street Professional Park.

Mayor Bissette requested that he be excused from participation and vote on the issue relative to the Orange Street Professional Park Development since his law firm represents the developer.

Councilman Tisdale moved to excuse Mayor Bissette from participation and vote in the issue relative to the Orange Street Professional Park. This motion was seconded by Councilman Boland and carried unanimously.

At this time, Councilman Bratton chaired the meeting.

Councilman Bratton said the Asheville Planning and Zoning Commission, at a meeting held May 14, 1986, reviewed the site plan of the Orange Street Professional Park. The site plan was prepared by John Broadbooks, ASLA, for Tyner Construction Company, Burnsville, N.C., Developer, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of the project subject to: 1) relocating entrance drive 50' from intersection of Orange and South Liberty Street, or between Buildings A and B; and 2) compliance with the Erosion Control Ordinance.

Mayor Bissette said the Asheville Planning and Zoning Commission, at a meeting held May 14, 1986, reviewed a site plan of the proposed Forest Ridge Mobile Home Park to be located on Rock Hill Circle. The plan was prepared by Pankow Engineering Company for Mr. Frank Duckett, Developer, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of the project subject to: 1) agreement on entrance road; 2) placement of some fencing within the 50' buffer requirement; and 3) compliance with the Erosion Control Ordinance.

Mayor Bissette opened the public hearing at 4:55 p.m.

The City Clerk presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Mayor Bissette noted that the attorney for the developer had requested that the public hearing be continued until July 22, 1986.

Councilman Tisdale moved to continue the public hearing relative to the Forest Ridge Mobile Home Park until July 22, 1986, without further advertisement. This motion was seconded by Councilman Michalove and carried unanimously.

PUBLIC HEARING - ESTABLISHMENT OF MORATORIUM LIMITING MULTI-FAMILY DEVELOPMENT ON SITES WHERE THE AVERAGE SLOPE IS FIFTEEN PERCENT (15%) OR GREATER

6. A public hearing was held relative to consideration of an ordinance establishing a moratorium limiting multi-family development on sites where the average slope is fifteen percent (15%) or greater.

Mayor Bissette said this ordinance will impose a six (6) month moratorium on the issuance of any building, zoning, grading and other construction permits for all multiple-family projects which are proposed to be located on sites where the average slope is fifteen percent (15%) or greater and on consideration of any requests for group development reviews by the Planning and Zoning Commission which would be affected by this moratorium in order that studies can be completed for adoption of new zoning regulations for project sites whose average slope is fifteen percent (15%) or greater. This limited moratorium shall begin with the adoption of this ordinance and shall run six months thereafter, expiring on January 8, 1987.

Mayor Bissette opened the public hearing at 4:56 p.m.

The City Clerk presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Mayor Bissette noted that the notice to the public published that the proposed moratorium would be on average slopes which is fifteen percent (15%) or greater. He said, in discussing the matter during the Pre-Council meeting, Council members felt that the moratorium restricting multi-family projects on sites where the average slope is fifteen percent (15%) or greater would be too restrictive and would affect too much land in the City of Asheville.

Councilman Michalove moved to schedule a public hearing relative to the adoption of an ordinance establishing a moratorium limiting multi-family developments on sites where the average slope is 2,220' or greater for July 22, 1986. This motion was seconded by Councilman Boland and carried unanimously.

Verl Emrick, Director of Planning, said the Asheville Planning and Zoning Commission had reviewed and approved Phase I of the Redevelopment Plan of Wall Street which would involve the renovation of property on the south side of Wall Street and a comprehensive streetscape involving furniture, lights, plantings and other improvements. He said the Planning and Zoning Commission had also approved, in concept, Phase II of the project dealing with a 250-space parking deck. By the use of a map, Mr. Emrick showed the location of the Phase I renovations.

Jim Glave, architect for the project, described Phase I of the project.

Ned Guttman, of Beechwood Road, questioned the need for a parking garage in this particular area.

Barry Olin, of 19 Wall Street, said he was concerned with the problems that he is having during the development of the Wall Street project, particularly with workers parking on the street. He said he felt the City of Asheville should have a liaison to oversee the project. He also requested permission to erect a temporary sign at the end of Wall Street to let people know his business is still open during the construction period.

Mayor Bissette requested that Mr. Olin contact the City Manager directly with any problems relative to the Wall Street Project. He also requested that the developer work with the merchants in the area to help smooth the problems during the construction phase.

Upon inquiry of Mike Green, of 89 Wendover Road, it was noted that the Redevelopment Plan of Phase I for the Wall Street Project would include the streetscape design and landscaping.

Charles Inman, of 21 Wall Street, spoke relative to the streetscape plan and the future approval of the parking deck.

Mayor Bissette informed Mr. Inman and other interested merchants that the parking deck site plan would be considered at a later date.

Elizabeth Meadows, of 26 Sandon Drive, owner of property on Wall Street, objected to the construction taking both parking lots beside her business on Wall Street.

Mayor Bissette closed the public hearing at 4:53 p.m.

Councilman Boland moved to approve the proposed redevelopment plan of Wall Street subject to the recommendations of the Planning and Zoning Commission. This motion was seconded by Councilman Bratton and carried unanimously.

PUBLIC HEARING - SITE PLAN - PROPOSED FOREST RIDGE MOBILE HOME PARK TO BE LOCATED ON ROCK HILL CIRCLE

5. A public hearing was held relative to the site plan of the proposed Forest Ridge Mobile Home Park to be located on Rock Hill Circle.

Councilman Michalove requested that the Water and Sewer Department, Public Works Department, and the ULOCO Committee review the proposed buffering requirements before the final reading of the ordinance.

Verl Emrick answered questions from Councilman Michalove relative to specific portions of the proposed amendment.

Councilman Tisdale commended the Asheville Tree Commission for their work on the proposed buffering amendments.

Mayor Bissette closed the public hearing at 5:40 p.m.

Mayor Bissette said the ordinance was previously presented to members of Council and would not be read in its entirety unless there was a specific request to do so.

Councilman Michalove moved for the adoption of Ordinance No. 1592. This motion was seconded by Councilman Boland.

On a roll call vote of 7-0, Ordinance No. 1592 passed on first reading.

Mayor Bissette noted that several amendments to the ordinance had been suggested and the amendments would be presented prior to second reading of the ordinance.

CONSIDERATION OF ACTIONS RELATIVE TO THE BOND ISSUE (STREETS AND SIDEWALKS AND PACK PLAZA EDUCATION, ARTS AND SCIENCE CENTER)

8. There was introduced in written form the following order authorizing bonds which was read:

ORDINANCE NO. 1593 - ORDER AUTHORIZING $17,000,000 STREET AND SIDEWALK BONDS

BE IT ORDERED by the Council of the City of Asheville:

1. That, pursuant to the local Government Bond Act, as amended, the City of Asheville, North Carolina, is hereby authorized to contract a debt, in addition to any and all other debt which said City may now or hereafter have power or authority to contract, and in evidence thereof to issue Street and Sidewalk Bonds in an aggregate principal amount not exceeding $17,000,000 for the purpose of providing funds, with any other available funds, for constructing, erecting, providing, installing, reconstructing, renovating, replacing, enlarging, expanding, extending, demolishing, improving, grading, draining, landscaping, paving, widening and resurfacing streets and sidewalks, including without limitation bridges, viaducts, causeways, overpasses, underpasses, alleys, curbs and gutters, culverts, drains, traffic controls, signals, markers, lighting, grade crossings and the elimination thereof and grade separations, including the acquisition of necessary land, right of way, and equipment.

2. That taxes shall be levied in an amount sufficient to pay the principal of and the interest on said bonds.

Augusta Young, of 360 Kenilworth Road, spoke in support of the moratorium stating that there is a need to protect the mountain slopes, as well as mountain ridges in the City of Asheville.

Ned Guttman, of Beechwood Road, said he felt there was a need for control of all high buildings within the City of Asheville.

John Walsh, of 26 Ivy Street, spoke relative to erosion control factors on mountain ridges and slopes. He said he felt such an ordinance should provide safeguards for erosion control.

Barbara Melton, of 15 Melton Drive in Haw Creek, spoke in support of the adoption of a mountainside zoning ordinance and the establishment of a moratorium until such an ordinance is adopted.

Mayor Bissette closed the public hearing at 5:10 p.m.

Councilman Michalove's motion to schedule a public hearing for July 22, 1986, on this particular matter carried unanimously.

PUBLIC HEARING - AMENDMENT TO ZONING ORDINANCE - PROVIDING BUFFERING REQUIREMENTS

ORDINANCE NO. 1592 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE" AS AMENDED

7. A public hearing was held relative to amending Ordinance No. 322, known as "An ordinance providing for the City of Asheville", as amended to provide buffering requirements.

Mayor Bissette said the Asheville Planning and Zoning Commission on March 19, 1986, reviewed a buffering amendment to the zoning ordinance proposed by the Asheville Tree Commission. After some modifications, the Commission voted to recommend approval of the amendment to City Council.

Mayor Bissette opened the public hearing at 5:12 p.m.

The City Clerk presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, outlined the proposed amendments to the Zoning Ordinance providing buffering requirements. He said members of Council had been presented with the proposed amendments. He said the major requirements would be that developers plant one tree for each 15 spaces constructed in parking areas, the plantings within a parking area must be in islands protected by curbing or parking barriers, and buffering around the perimeter of a parking area also will be required. He said in the downtown area, at least one tree for each 40' of street frontage will be required for any new construction or substantial rehabilitation where space and environmental conditions permit. He said in residential areas, buffer strips will be required for any group development project adjacent to single family housing. He said buffer strips of 20' in width would be required in all commercial zoning districts and where the development abuts residential districts. He said the amendment would also require property owners to maintain the buffering and for trees and shrubs to be carefully planted in accordance with good horticultural practices.

2. That taxes shall be levied in an amount sufficient to pay the principal of and the interest on said bonds.

3. That a sworn statement of the debt of said City has been filed with the City Clerk and is open to public inspection.

4. That this order shall take effect when approved by the voters of said City at a referendum as provided in said Act.

Thereupon, upon motion of Councilman Michalove, seconded by Councilman Boland, the order entitled: "ORDER AUTHORIZING $3,000,000 EDUCATION, ARTS AND SCIENCE CENTER BONDS," as hereinabove set forth, was passed upon its first reading by the following vote:

Ayes: Councilmen Bratton, Tisdale, Boland, Michalove, and Mayor Bissette.

Noes: None.

Thereupon, upon motion of Councilman Bratton, seconded by Councilman Tisdale, the requirement of the Charter that ordinances be read on three separate days was dispensed with by the following vote, being not less than two-thirds of the members of the Council:

Ayes: Councilmen Bratton, Tisdale, Boland, Michalove, and Mayor Bissette.

Noes: None.

Thereupon, upon motion of Councilman Michalove, seconded by Councilman Boland, the order entitled: "ORDER AUTHORIZING $3,000,000 EDUCATION, ARTS AND SCIENCE CENTER BONDS," as hereinabove set forth, was read a second time and was passed upon its second reading by the following vote:

Ayes: Councilmen Bratton, Tisdale, Boland, Michalove, and Mayor Bissette.

Noes: None.

Thereupon, there was introduced in written form the following resolution which was read:

RESOLUTION NO. 86-119 - RESOLUTION DESIGNATING THE DIRECTOR OF FINANCE TO PREPARE AND THE CITY MANAGER TO FILE THE SWORN STATEMENT OF DEBT

BE IT RESOLVED by the Council of the City of Asheville:

Section 1. That the Director of Finance be and he is hereby designated as the officer who shall prepare and that the City Manager be and he is hereby designated as the officer who shall file with the City Clerk the sworn statement of debt of the City of Asheville which is required by The Local Government Bond Act, as amended, to be filed after a bond order has been introduced and before the public hearing thereon.

3. That a sworn statement of the debt of said City has been filed with the City Clerk and is open to public inspection.

4. That this order shall take effect when approved by the voters of said City at a referendum as provided in said Act.

Thereupon, upon motion of Councilman Boland, seconded by Councilman Tisdale, the order entitled: "ORDER AUTHORIZING $17,000,000 STREET AND SIDEWALK BONDS," as hereinabove set forth, was passed upon its first reading by the following votes:

Ayes: Councilmen Bratton, Tisdale, Boland, Michalove, and Mayor Bissette.

Noes: None.

Thereupon, upon motion of Councilman Boland, seconded by Councilman Michalove, the requirement of the Charter that ordinances be read on three separate days was dispensed with by the following vote, being not less than two-thirds of the members of the Council:

Ayes: Councilmen Bratton, Tisdale, Boland, Michalove, and Mayor Bissette.

Noes: None.

Thereupon, upon motion of Councilman Boland, seconded by Councilman Michalove, the other entitled: "ORDER AUTHORIZING $17,000,000 STREET AND SIDEWALK BONDS," as hereinabove set forth, was read a second time and was passed upon its second reading by the following vote:

Ayes: Councilmen Bratton, Tisdale, Boland, Michalove, and Mayor Bissette.

Noes: None.

Thereupon there was introduced in written form the following order authorizing bonds which was read:

ORDINANCE NO. 1594 - ORDER AUTHORIZING $3,000,000 EDUCATION, ARTS AND SCIENCE CENTER BONDS

BE IT ORDERED by the Council of the City of Asheville:

1. That, pursuant to the Local Government Bond Act, as amended, the City of Asheville, North Carolina, is hereby authorized to contract a debt, in addition to any and all other debt which said City may now or hereafter have power or authority to contract, and in evidence thereof to issue Education, Arts and Science Center Bonds in an aggregate principal amount not exceeding $3,000,000 for the purpose of providing funds, with any other available funds, for renovating, constructing, reconstructing, and expanding existing buildings and additional facilities for use as an arts and science center, including the acquisition of any necessary equipment and furnishings.

a(3)	Unissued bonds authorized by adopted orders.....	$	-0-
a(4)	Outstanding debt, not evidenced by bonds.....	$	802,962
(a)	GROSS DEBT, being the sum of a(1), a(2), a(3) and a(4).....	$	30,352,962
	(b) DEDUCTIONS		
b(1)	Funding and refunding bonds authorized by orders introduced but not yet adopted.....	$	-0-
b(2)	Funding and refunding bonds authorized but not yet issued.....	$	-0-
b(3)	The amount of money held in sinking funds or otherwise for the payment of any part of the principal of gross debt other than debt incurred for water, gas, electric light or power purposed, or sanitary sewer purposes (to the extent that the bonds are deductible under G.S. §159-55(b)) or two or more of these purposes.....	$	-0-
b(4)	Bonded debt included in gross debt and incurred, or to be incurred, for water, gas, electric light or power purposes, or two or more of these purposes.....	$	6,340,000
b(5)	Bonded debt included in gross debt and incurred, or to be incurred, for sanitary sewer purposes (to the extent deductible under G.S. §159-55(b)).....	$	-0-
b(6)	Uncollected special assessments heretofore levied for local improvements for which any part of the gross debt (that is not otherwise deducted) was or is to be incurred, to the extent that such assessments will be applied, when collected, to the payment of any part of the gross debt.....	$	-0-
b(7)	The amount, as estimated by the undersigned, of special assessments to be levied for local improvements for which any part of the gross debt (that is not otherwise deducted) was or is to be incurred, to the extent that the special assessments, when collected, will be applied to the payment of any part of the gross debt.....	$	-0-
(b)	DEDUCTIONS, being the sum of b(1), b(2), b(3), b(4), b(5), b(6) and b(7).....	$	6,340,000

Read, approved and adopted this the 8th day of July, 1986.

City Clerk Mayor

Complete text of Resolution No. 86-119 will be found in Resolution Book No. 16 at page 77.

Upon motion of Councilman Bratton, seconded by Councilman Michalove, the foregoing resolution entitled: "RESOLUTION DESIGNATING THE DIRECTOR OF FINANCE TO PREPARE AND THE CITY MANAGER TO FILE THE SWORN STATEMENT OF DEBT" was passed by the following vote:

Ayes: Councilmen Bratton, Tisdale, Boland, Michalove, and Mayor Bissette.

Noes: None.

Thereupon, the City Manager filed with the City Clerk, in the presence of the Council, the sworn statement of debt as so required, which statement is attached to and made a part of these minutes.

CITY OF ASHEVILLE, NORTH CAROLINA

SWORN STATEMENT OF DEBT MADE PURSUANT TO THE LOCAL GOVERNMENT BOND ACT, AS AMENDED

I, Larry Fisher, Finance Director of the City of Asheville, North Carolina, having been designated by the Council for said City to make a statement of the debt of said City pursuant to The Local Government Bond Act, as amended, DO HEREBY CERTIFY that the following is a true statement as shown by the books in my office, not taking into consideration any debt incurred or to be incurred in anticipation of the collection of taxes or other revenues or in anticipation of the sale of bonds other than funding and refunding bonds and not taking into consideration revenue bonds:

(a) GROSS DEBT

a(1)	Outstanding debt evidenced by bonds:			
	Water Bonds	$ 6,340,000		
	Electric Bonds			
	Gas Bonds			
	Sanitary Sewer Bonds			
	Other Bonds	3,210,000	$	9,550,000
a(2)	Bonds authorized by orders introduced but not yet adopted:			
	Street and Sidewalk Bonds (introduced July 8, 1986)	17,000,000		
	Arts and Science Center Bonds (introduced July 8, 1986)	3,000,000	$	20,000,000

Thereupon, there was introduced in written form the following resolution which was read:

RESOLUTION NO. 86-120 - RESOLUTION PROVIDING FOR A PUBLIC HEARING UPON AN ORDER AUTHORIZING $17,000,000 STREET AND SIDEWALK BONDS AND DIRECTING THE CITY CLERK TO PUBLISH SAID ORDER TOGETHER WITH A STATEMENT GIVING NOTICE OF SAID HEARING

BE IT RESOLVED by the Council of the City of Asheville:

Section 1. That a public hearing upon the order entitled: "ORDER AUTHORIZING $17,000,000 STREET AND SIDEWALK BONDS" shall be held at 4:00 o'clock p.m., on July 22, 1986, at the Council chambers of the City Building in Asheville, North Carolina, at which the Council shall hear anyone who may wish to be heard on the question of the validity of said order or the advisability to issuing said bonds.

Section 2. That said public hearing may be adjourned from time to time.

Section 3. That the City Clerk be and he is hereby directed to publish said order, together with the appended statement giving notice of said hearing as required by the Local Government Bond Act, as amended, once in The Asheville Times not later than the sixth business day before the date of said public hearing.

Read, approved and adopted this the 8th day of July, 1986

City Clerk

Mayor

Complete text of Resolution No. 86-120 will be found in Resolution Book No. 16 at page 78.

Upon motion of Councilman Boland, seconded by Councilman Michalove, the foregoing resolution entitled: "RESOLUTION RROVIDING FOR A PUBLIC HEARING UPON AN ORDER AUTHORIZING $17,000,000 STREET AND SIDEWALK BONDS AND DIRECTING THE CITY CLERK TO PUBLISH SAID ORDER TOGETHER WITH A STATEMENT GIVING NOTICE OF SAID HEARING" was passed by the following vote:

Ayes: Councilmen Bratton, Tisdale, Boland, Michalove, and Mayor Bissette.

Noes: None.

Thereupon, there was introduced in written form the following resolution which was read:

RESOLUTION NO. 86-121 - RESOLUTION PROVIDING FOR A PUBLIC HEARING UPON AN ORDER AUTHORIZING $3,000,000 EDUCATION, ARTS AND SCIENCE CENTER BONDS AND DIRECTING THE CITY CLERK TO PUBLISH SAID ORDER TOGETHER WITH A STATEMENT GIVING NOTICE OF SAID HEARING

BE IT RESOLVED by the Council of the City of Asheville:

(c) NET DEBT

(c)	NEW DEBT, being the difference between the GROSS DEBT (a) and the DEDUCTIONS (b)	$ 24,012,962

(d) APPRAISED VALUE

(d)	APPRAISED VALUE of property subject to city taxation before the application of any assessment ratio, being the value fixed in 1985 and the value from which the assessed value last fixed for taxation by the City of Asheville was computed.	$ 1,729,765,748

(e) DEBT RATIO

(e)	Percentage which the NET DEBT (c) bears to the APPRAISED VALUE (d).....	1.39%

The foregoing statement is true.

_____
Finance Director of the City of Asheville, North Carolina

STATE OF NORTH CAROLINA)
) ss.:
COUNTY OF BUNCOMBE)

Subscribed and sworn to before me this _____ day of July, 1986.

_____
Notary Public

My Commission Expires: _____

I, William P. Wolcott, Jr., City Clerk of the City of Asheville, North Carolina, DO HEREBY CERTIFY that the foregoing is a true copy of a statement which was filed with me at a meeting of said Council on July 8, 1986, after the introduction of and before the public hearing on two orders authorizing bonds of said City, and that said statement is open to public inspection in my office.

WITNESS my hand and the official seal of said City, this _____ day of July, 1986.

_____
City Clerk

[SEAL]

Mayor Bissette said a petition requesting annexation of the non-contiguous area has been received. The City Clerk has been directed to investigate the sufficiency of the petition. Certification as to the sufficiency of this petition has been made by the City Clerk.

Mayor Bissette said members of Council were previously furnished copies of the resolution and it would not be read in its entirety unless there was a specific request to do so.

Upon motion of Councilman Tisdale, seconded by Councilman Michalove, Resolution No. 86-122 was unanimously adopted.

Complete text of Resolution No. 86-122 will be found in Resolution Book No. 16 at page 80 and 81.

APPROVAL OF CONSENT AGENDA

10. Mayor Bissette said the following items are of a routine nature and they have been previously reviewed by the members of the City Council. Therefore, by unanimous vote to approve these items, the City Council may, pursuant to the procedures established in Ordinance No. 1008, adopt all of the items with one motion without the full reading and/or separate motion adopting each individual item. Upon the request of a citizen, a member of the City Council, and/or a member of the City staff, any single item scheduled for approval on the consent agenda may be considered separately.

Resolution No. 86-123

A. Consideration of a resolution authorizing the barricading of a portion of Church Street on July 12, 1986 for "A Sharing Affair".

HIGHLIGHTS: The Asheville Buncombe Community Christian Ministry for several years has successfully executed their fundraising event for the work of the Christian Ministry. Over 100 churches join forces to create this event on Church Street. This resolution will authorize the barricading of Church Street from the property line of Central United Methodist Church south to the property line of Trinity Episcopal Church (not including that portion of Aston Street) to be closed to traffic on Saturday, July 12, 1986, from 6:00 a.m. until 6:00 p.m. for ABCCM to have "A Sharing Affair".

FISCAL IMPACT: None

Complete text of Resolution No. 86-123 will be found in Resolution Book No. 16 at page 82.

B. Consideration of a motion to schedule a public hearing to rezone property on U.S. 70-E adjacent to Bell School from R-2 Residential District to CH Commercial Highway District for July 29, 1986.

Section 1. That a public hearing upon the order entitled: "ORDER AUTHORIZING $3,000,000 EDUCATION, ARTS AND SCIENCE CENTER BONDS" shall be held at 4:00 o'clock p.m., on July 22, 1986, at the Council chambers of the City Building in Asheville, North Carolina, at which the Council shall hear anyone who may wish to be heard on the question of the validity of said order or the advisability of issuing said bonds.

Section 2. That said public hearing may be adjourned from time to time.

Section 3. That the City Clerk be and he is hereby directed to publish said order, together with the appended statement giving notice of said hearing as required by The Local Government Bond Act, as amended, once in The Asheville Times not later than the sixth business day before the date of said public hearing.

Read, approved and adopted this the 8th day of July, 1986.

City Clerk Mayor

Complete text of Resolution No. 86-119 will be found in Resolution Book No. 16 at page 77.

Upon motion of Councilman Michalove, seconded by Councilman Boland, the foregoing resolution entitled "RESOLUTION PROVIDING FOR A PUBLIC HEARING UPON AN ORDER AUTHORIZING $3,000,000 EDUCATION, ARTS AND SCIENCE CENTER BONDS AND DIRECTING THE CITY CLERK TO PUBLISH SAID ORDER TOGETHER WITH A STATEMENT GIVING NOTICE OF SAID HEARING" was passed by the following vote:

Ayes: Councilmen Bratton, Tisdale, Boland, Michalove, and Mayor Bissette.

Noes: None.

Thereupon the resolution entitled: "RESOLUTION DESIGNATING THE DIRECTOR OF FINANCE TO PREPARE AND THE CITY MANAGER TO FILE THE SWORN STATEMENT OF DEBT", the resolution entitled: "RESOLUTION PROVIDING FOR A PUBLIC HEARING UPON AN ORDER AUTHORIZING $17,000,000 STREET AND SIDEWALK BONDS AND DIRECTING THE CITY CLERK TO PUBLISH SAID ORDER TOGETHER WITH A STATEMENT GIVING NOTICE OF SAID HEARING" and the resolution entitled: "RESOLUTION PROVIDING FOR A PUBLIC HEARING UPON AN ORDER AUTHORIZING $3,000,000 EDUCATION, ARTS AND SCIENCE CENTER BONDS AND DIRECTING THE CITY CLERK TO PUBLISH SAID ORDER TOGETHER WITH A STATEMENT GIVING NOTICE OF SAID HEARING" were authenticated by the signatures of the Mayor and the City Clerk.

RESOLUTION 86-122 - RESOLUTION FIXING DATE OF PUBLIC HEARING ON QUESTION OF ANNEXATION PURSUANT TO G.S. 160A-58.2 AS AMENDED (HOLIDAY INN EAST PROPERTY)

9. Consideration was given to a resolution fixing the date of a public hearing on the question of annexation pursuant to G.S. 160A-58.2 as amended (Holiday Inn East property).

HIGHLIGHTS: This resolution will appoint Mr. Nelson M. Ferg, 20 Mayflower Drive, Asheville, N.C. to a four year term, term expiring on June 30, 1990, or until his successor has been duly appointed and qualified.

FISCAL IMPACT: None

Complete text of Resolution No. 86-126 will be found in Resolution Book No. 16 at page 85.

Upon motion of Councilman Michalove, seconded by Councilman Tisdale, the Consent Agenda was unanimously approved.

COUNCILMAN TISDALE REQUEST OF CITY MANAGER - TRACTOR TRAILERS ON FAIRVIEW ROAD/ SCHOOL ROAD

Councilman Tisdale requested that the City Manager look into a concern of the Oakley Residents relative to tractor trailers using Fairview Road and School Road.

COUNCILMAN BRATTON - STATISTICAL INFORMATION REQUESTED ON AFFIRMATIVE ACTION

Councilman Bratton requested statistical information from the City Manager relative to affirmative action within the City of Asheville.

CLAIMS - MARY S. DAVIDSON (WATER) - MRS. ZEB WEAVER (WATER)

The City Manager presented claims received from Mary S. Davidson and Mrs. Zeb Weaver.

Mayor Bissette referred the claims to the Corporation Counsel for investigation and recommendation.

RESOLUTION NO. 86-127 - RESOLUTION ENDORSING PROPOSED HOUSING DEVELOPMENT SPONSORED BY ALL SOULS AND TRINITY PARISHES

Consideration was given to a resolution endorsing proposed housing development sponsored by All Souls and Trinity parishes.

Mayor Bissette said the congregation of All Souls Episcopal Church and Trinity Episcopal Church is sponsoring 40 units of low-income housing for the elderly and/or handicapped under Section 202-8 of the National Housing Act and there is documented need for more of this type of low-income housing for the elderly and handicapped in Asheville. He said this resolution would endorse and commend the efforts of All Souls Episcopal Church and Trinity Episcopal Church for their efforts in sponsoring such a low-income prject for the elderly and/or handicapped.

Upon motion of Councilman Michalove, seconded by Councilman Bratton, Resolution No. 86-127 was unanimously adopted.

Complete text of Resolution No. 86-127 will be found in Resolution Book No. 16 at page 86.

HIGHLIGHTS: The Asheville Planning and Zoning Commission at a meeting held June 11, 1986, considered the petition of Attorney Jack Westall for Mr. Frank Kasey that Ward 8, Sheet 31, portion of Lot 201, be rezoned from R-2 Residential District to CH Commercial Highway District. The petition also requested the repeal of Ordinance #1046 requiring a 50' green belt and that the 50' green belt be rezoned "R-2". The property is located on U.S. 70-E adjacent to Bell School. After review and discussion, the Commission voted to recommend that the petition be denied. However, the petitioner has appealed Planning & Zoning Commission's decision and has asked that a public hearing be scheduled so the rezoning matter can be heard before Council.

FISCAL IMPACT: None

Resolution No. 86-124

C. Consideration of a resolution appointing a member to the Asheville-Buncombe Historic Resources Commission.

HIGHLIGHTS: The term of Verne Rhoades expired July 1, 1986. This resolution will appoint Dennie Martin, Route 5, Box 885, Rose Hill Road, Asheville, N.C. 28803 to a three (3) year term, term expiring July 1, 1989 or until his successor has been duly appointed and qualified.

FISCAL IMPACT: None

Complete text of Resolution No. 86-124 will be found in Resolution Book No. 16 at page 83.

Resolution No. 86-125

D. Consideration of a resolution appointing members to the Asheville Tree Commission.

HIGHLIGHTS: The terms of Elrita Nesby, Anthony Lord, and John A. Broadbrooks expired August 1, 1985. This resolution will appoint Peter Gentling, 241 Old Toll Road, Asheville, N. C.; Carlos P. Bickford, 53 Fanning Bridge Road, Fletcher, N.C.; and Roger T. Smith, 438 Hazelmill Road, Asheville, N.C. to a three (3) year term, term expiring August 1, 1988, or until their successors have been duly appointed and qualified.

FISCAL IMPACT: None

Complete text of Resolution No. 86-125 will be found in Resolution Book No. 16 at page 84.

Resolution No. 86-126

E. Consideration of a resolution appointing a member to the Asheville Regional Airport Authority.

Tuesday - July 15, 1986 - 4:00 p.m.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Mary Lloyd Frank; Councilmen Wilhelmina Bratton; Kenneth M. Michalove; and George M. Tisdale; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Councilmen Norma T. Price and Walter R. Boland

INVOCATION

The invocation was given by Vice-Mayor Mary Lloyd Frank.

APPROVAL OF THE MINUTES - JULY 8, 1986 MEETING

1. Consideration was given to the approval of the minutes of the July 8, 1986, meeting.

Mayor Bissette announced the approval of the minutes as submitted.

PROCLAMATION - JULY 20-27, 1986 AS "BELE CHERE DIRTY CAR WEEK"

2. Mayor Bissette read a proclamation proclaiming July 20-27, as "Bele Chere Dirty Car Week".

Mayor Bissette presented the proclamation to Ray Kisiah, Director of Parks, Recreation, and Public Facilities.

PUBLIC HEARING - DESIGNATION OF CHESTNUT-LIBERTY STREET AREA AS LOCAL HISTORIC DISTRICT

3. A public hearing to consider an ordinance amending Chapter 30 of the Code of Ordinances of the City of Asheville to create the Chestnut-Liberty Street area as local historic district was continued.

Mayor Bissette said this ordinance would designate the Chestnut-Liberty Street neighborhood as a local historic district. Certificates of Appropriateness would be required by a property owner before any exterior rehabilitation or new construction can take place. At the June 24, 1986 meeting of the City Council, this public hearing was continued until July 15, 1986.

Mayor Bissette noted that the Planning and Zoning Commission is scheduled to consider the Chestnut-Liberty Street area as a local historic district on August 6, 1986. He recommended that Council continue the public hearing until August 12, 1986.

Councilman Tisdale moved to continue the public hearing relative to the creation of the Chestnut-Liberty Street area as a local historic district until August 12, 1986 without further advertisement. This motion was seconded by Vice-Mayor Frank and carried unanimously.

RALPH BISHOP - OBTAINING PUBLIC RECORDS

Ralph Bishop again spoke to members of Council relative to his difficult in obtaining public records referring to a letter given to him by the Corporation Counsel from the Attorney General of the State of North Carolina stating that police pension records were not a part of public record and should not be released.

ADJOURNMENT

Upon motion of Councilman Tisdale, seconded by Councilman Boland, the meeting adjourned at 6:15 p.m.

MAYOR

CITY CLERK

George Jensen, of 12 Broad Street, engineer of the proposed project said the slopes for the project are stable and the buildings are in the approximate approved locations. He said very little grading had been done that was not approved by Council on May 25, 1985.

After a lengthy discussion, Councilman Michalove moved that the Asheville City Council stop construction on the project; invoke whatever appropriate fines there are regarding erosion control and zoning violations; require the developer to submit a new landscaping plan that will be coterminous with the grading that was done and submit that plan by July 22, 1986; that the developer increase the amount of planting to be done in conformance with the new buffering ordinance that Council is now considering; that the developer control the dust on the project area by leasing, renting, or purchasing whatever equipment they need to water the area down on a regular basis; that the developer create off-street parking areas if there are not sufficient parking spaces off the street; that the developer hydroseed as soon as possible or take whatever other appropriate measures there are to control any wash that might occur during a heavy rain; that the City of Asheville notify the developer's lender of current problems and violations; that the City charge the contractor for any cleaning of the street done by the City if any has been done; that the City properly invoke the City regulations regarding the control of dust and street washing when there is contract work being done; that the developer have a flagman on duty when there is equipment crossing the street; and that the developer post a performance bond for assuring the City that the landscaping plan that they come up with will be carried out. This motion was seconded by Councilman Bratton.

Upon inquiry of Councilman Tisdale, the Corporation Counsel suggested that Council go into Executive Session to discuss Councilman Michalove's motion.

Councilman Michalove withdrew his motion, at the request of the Corporation Counsel, to discuss the motion during an Executive Session. Councilman Bratton withdrew the second to the motion.

Councilman Bratton moved that Council adjourn to Executive Session to discuss a motion relative to the Woodberry Apartment Complex,being a legal matter. This motion was seconded by Councilman Tisdale and carried unanimously.

After the Executive Session, Councilman Michalove moved that the City Manager be directed to take such actions as deemed necessary to compel compliance by the developer with all applicable provisions, including, but not limited to, the Building Code, the Zoning Ordinance, dust control, parking, and traffic control of the Code of Ordinances of the City of Asheville and to pursue such fines and other legal remedies that may be available under the Code of Ordinances for failure to comply. Further, that the developer submit a new landscaping plan, other than the one dated 7/1/86, which will compensate for the destruction of trees that were stated to be left in the landscaping plan approved by the Asheville City Council July 16, 1985. Further, that the developer consider the quantity, size, types, and spacing of trees, shrubs, and groundcover in accordance with the Director of Planning. This motion was seconded by Councilman Bratton.

Upon inquiry of Councilman Tisdale, the Corporation Counsel noted that this motion was in order.

On a voice vote, Councilman Michalove's motion carried unanimously.

REVISED SITE PLAN - WOODBERRY APARTMENT COMPLEX LANDSCAPING PLAN

4. Consideration was given to a revised site plan of the Woodberry Apartment Complex landscaping plan.

Mayor Bissette said on May 25, 1986, City Council approved the site plan for Woodberry. Changes in the approved grading plan occurred which will require a new landscaping plan. In addition, the developer is also requesting approval for four (4) additional units in the complex.

Verl Emrick, Director of Planning, said the developers were notified on May 12 that they were in violation of the approved site plan for the Woodberry Apartment Complex. By the use of a map, Mr. Emrick outlined the changes that have occurred to the project since the site plan was originally presented to Council for approval.

Jeff Ratliff, Architect for the project, spoke in support of the project. He said, in his opinion, an error was made by clearcutting too many trees in the project but also pointed out that when Council approved the site plan it also approved the grading plan which called for the removal of trees. He said the original landscaping plan presented to members of Council was a rough schematic plan rather than a technical grading plan.

Mr. Ratliff answered questions from members of Council relative to the landscaping plan and the project.

Several members of Council indicated that they were disappointed in the project since, at the present time, the project consists of buildings, dirt and a barren slope, which should be covered with trees according to the approved landscaping plan.

By the use of a map, Mr. Ratliff showed changes to be made in the original landscaping plan.

A discussion was held, instituted by Councilman Tisdale, relative to complaints received from residents in the area relative to roads being blocked by construction without flagmen, and dust, and parking on the road during construction.

Paul Goodman, 484 Windswept Drive, spoke to members of Council relative to the parking and dust on the road during construction.

Marla Tugwell, Windswept Drive, also spoke relative to the condition of the road and the parking situation during construction.

Sue Peterson, Windswept Drive, spoke to members of Council relative to the erosion control problems created by the project.

Neal Stewart, Windswept Drive, speaking on behalf of homeowners on Windswept Drive, said the residents are concerned about the internal development of the property and was opposed to the project as it is being developed. He said the residents are concerned about dust, parking, speeding, littering, and the blocking of the road by the construction crew.

Jeff Phillips, of Branch Associates, contractor for the project, spoke in support of the project stating that he was aware that landscaping for the project is a problem but requested that Council cooperate with the developer.

Mayor Bissette said the revision of Rule 17(e), Bereavement Leave, will provide that leave shall be granted to any member of the Classified Service who is scheduled to work but who has a death in the immediate family. Such leave shall (1) be approved by the employee's department/division head and not exceed three (3) working days; (2) be with pay; and (3) not be charged against the employee's accrued compensatory time or annual/sick leave. Under all circumstances, the leave must be taken at the time of the emergency. For the purposes of this rule, the term "immediate family" shall mean father and mother, brother and sister, spouse, children, grandchildren, grandparents, and subject to the discretion of the employee's department/division head, anyone acting in such a capacity. The revision further provides that time off from a regularly scheduled work day of no more than one (1) work day may be granted to allow a member of the Classified Service to attend the funeral of a co-worker, close personal friend, or relative not in the immediate family.

Mayor Bissette noted that this matter was previously addressed by members of Council during a public hearing several weeks ago and the matter was referred to the Council Personnel Committee. He said, since that time, the revision to Rule 17(e) has been approved by the Council Personnel Committee.

Mayor Bissette said members of Council were previously furnished copies of the resolution and it would not be read in its entirety unless there was a specific request to do so.

Upon motion of Vice-Mayor Frank, seconded by Councilman Michalove, Resolution No. 86-129 was unanimously adopted.

Complete text of Resolution No. 86-129 will be found in Resolution Book No. 16 at page 88 and 89.

RESOLUTION NO. 86-130 - RESOLUTION AUTHORIZING SUBMISSION OF AN APPLICATION TO HUD FOR RENTAL REHABILITATION PROGRAM FUNDS

8. Consideration was given to a resolution authorizing submission of an application to HUD for rental rehabilitation program funds.

Mayor Bissette said this resolution will authorize the submission of an application to HUD for funds in the amount of $28,000 for Rental Rehabilitation Program assistance designed to encourage rehabilitation of rental residential property. Increase in revenue by $28,000. Public funds will be matched by private investment. A budget amendment will be submitted for this funding upon approval by HUD.

Mayor Bissette said this resolution was previously presented to members of Council and would not be read in its entirety unless there was a specific request to do so.

Upon motion of Councilman Tisdale, seconded by Vice-Mayor Frank, Resolution No. 86-130 was unanimously adopted.

Complete text of Resolution No. 86-130 will be found in Resolution Book No. 16 at page 90.

ORDINANCE NO. 1592 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE" AS AMENDED (PROVIDING BUFFERING REQUIREMENTS)

5. Consideration was given to the second reading of Ordinance No. 1592, an ordinance amending Ordinance No. 322, known as "an ordinance providing for the zoning of the City of Asheville" as amended to provide buffering requirements.

Mayor Bissette said the Asheville Planning and Zoning Commission on March 19, 1986, reviewed a buffering amendment to the zoning ordinance proposed by the Asheville Tree Commission. After some modifications, the Commission voted to recommend approval of the amendment to City Council. This ordinance passed first reading at the July 8, 1986 meeting.

Mayor Bissette said this ordinance was previously read on first reading and would not be reread in its entirety unless there was a specific request to do so.

Mayor Bissette said several proposed amendments to the ordinance have been presented and the amendments would be made prior to the third reading of the ordinance.

On a roll call vote of 5-0, Ordinance No. 1592 passed on second reading.

RESOLUTION NO. 86-128 - RESOLUTION ADOPTING AN INVESTMENT POLICY FOR THE CITY OF ASHEVILLE

6. Consideration was given to a resolution adopting an investment policy for the City of Asheville.

Mayor Bissette said Statement No. 3 of the Governmental Accounting Standards Board has been interpreted by the North Carolina Institute of Government staff and the North Carolina Local Government Commission staff to imply that investment policies be approved by governing boards. This resolution will place, in writing, the City's long-standing investment policy.

Mayor Bissette said members of Council were previously furnished copies of the resolution and it would not be read in its entirety unless there was a specific request to do so.

Upon motion of Councilman Tisdale, seconded by Vice-Mayor Frank, Resolution No. 86-128 was unanimously adopted.

Complete text of Resolution No. 86-128 will be found in Resolution Book No. 16 at page 87.

RESOLUTION NO. 86-129 - RESOLUTION APPROVING THE REVISION OF RULE 17(e) OF THE CIVIL SERVICE RULES AND REGULATIONS

7. Consideration was given to a resolution approving the revision of Rule 17(e) of the Civil Service Rules and Regulations.

HIGHLIGHTS: Carolina Power and Light Company has requested that the City of Asheville execute a right-of-way easement on property belonging to the City of Asheville located at the intersection of Hiawassee Street and Rankin Avenue for the purpose of updating existing power lines as shown on Carolina Power and Light Company Drawing No. RWA-7692. This resolution will authorize the Mayor to execute the easement in favor of Carolina Power and Light Company.

FISCAL IMPACT: None

Resolution Book No. 16, page 94.

Resolution No. 86-134

D. Consideration of a resolution appointing member to the Policemen's Pension & Disability Task Force.

HIGHLIGHTS: On October 29, 1985, by Resolution No. 85-197, the Asheville City Council established the Policemen's Pension & Disability Fund Task Force. In this resolution, the City Council determined that an active member of the Plan should be appointed to the Task Force. Lt. Porter V. Fowler, as Active Member, has retired from the Asheville Police Department. This resolution will appoint Lt. Owen Bodenhamer, as Active Member to the Policemen's Pension & Disability Fund Task Force.

FISCAL IMPACT: None

Resolution Book No. 16 Page 95

E. Consideration of a motion to schedule a public hearing to rezone property located at 1616 Patton Avenue from R-2 Residential District to CH Commercial Highway District for August 5, 1986.

HIGHLIGHTS: The Asheville Planning and Zoning Commission at a meeting held June 11, 1986, considered the petition of Mr. Bobby Barbour that a portion of Lot 1, Sheet 24, Ward 5, be rezoned from R-2 Residential District to CH Commercial Highway District. The property is located at 1616 Patton Avenue. After review and discussion, the Commission voted to recommend that the petition be denied and that a portion of Lot 1, Sheet 24, Ward 5, be rezoned from CH to R-2 Residential District to provide a buffer on the eastern property line of Lot 1. However, the petitioner has appealed Planning & Zoning Commission's decision and has asked that a public hearing be scheduled so the rezoning matter can be heard before Council.

FISCAL IMPACT: None

Upon motion of Councilman Michalove, seconded by Councilman Bratton, the consent agenda was unanimously adopted.

APPROVAL OF THE CONSENT AGENDA

9. Consideration was given to a motion approving the consent agenda.

Mayor Bissette said the following items are of a routine nature and they have been previously reviewed by the members of the City Council. Therefore, by unanimous vote to approve these items, the City Council may, pursuant to the procedures established in Ordinance No. 1008, adopt all of the items with one motion without the full reading and/or separate motion adopting each individual item. Upon the request of a citizen, a member of the City Council, and/or a member of the City staff, any single item scheduled for approval on the consent agenda may be considered separately.

Resolution No. 86-131

A. Consideration of a resolution to elect a tax shelter of employees contributions payable as members of the Law Enforcement Officers Retirement System of the State of North Carolina.

HIGHLIGHTS: Pursuant to a bill ratified by the N. C. General Assembly in 1984, the City was authorized to tax shelter contributions payable to the Law Enforcement Officers' Retirement System by its employees. The City has been tax sheltering the contributions payable to its employees to this system since January 1, 1984. The State of North Carolina requires adoption of a resolution authorizing the tax sheltering of the employees' contributions, and this action would bring the City into compliance with this requirement.

FISCAL IMPACT: None, however this action would save employees who are members of LEO Retirement System money as deductions are made prior to taxes thus ensuring greater "take-home" pay.

Resolution Book No. 16, page 91.

Resolution No. 86-132

B. Consideration of a resolution authorizing the closing of certain streets in Downtown Asheville relative to the Bele Chere Festival.

HIGHLIGHTS: The annual Bele Chere Festival for the City of Asheville will be held July 25, 26, and 27, 1986. The City Council and the Buncombe County Board of Commissioners have indicated their full support of this event. This resolution will authorize the City Manager to cause the closing of certain streets in downtown Asheville during the dates and times of the festival.

FISCAL IMPACT: None

Resolution Book No. 16, page 92-93.

Resolution No. 86-133

C. Consideration of a resolution authorizing the Mayor of the City of Asheville to execute easement in favor of the Carolina Power and Light Company.

CLAIMS - LAWRENCE TATE (WATER) - EDDIE NICHOLS (SEWER) - WAYNE CALDWELL (WATER) - N. H. HENSON (WATER) - HENRIETTA GRIFFIN (STREETS) - ZEB PETERSON (MOTOR TRANSPORT) - MARY LOU KING (SANITATION) - IRENE SCARBOROUGH (STREETS) - JEFFREY SANBORN (SEWER) - J. N. FEATHERSTONE (SANITATION)

The City Manager presented claims received from Lawrence Tate, Eddie Nichols, Wayne Caldwell, N.H. Henson, Henrietta Griffin, Zeb Peterson, Mary Lou King, Irene Scarborough, Jeffrey Sanborn, and J.N. Featherstone.

Mayor Bissette referred the claims to Corporation Counsel for investigation and recommendation.

ADJOURNMENT

Upon motion of Councilman Tisdale, seconded by Councilman Michalove, the meeting adjourned at 6:45 p.m.

MAYOR

CITY CLERK

AUTHORIZATION TO EXECUTE LETTER OF INDEMNIFICATION - PACK PLAZA ASSOCIATES LIMITED PARTNERSHIP - LEGAL BUILDING - BELE CHERE

Councilman Bratton moved that the City Manager be authorized to execute a letter of indemnification to be given to Pack Plaza Associates, Limited Partnership in order that the City may be able to use the Legal Building as headquarters, the Plaza Theater for Pack Plaza Promotions, and the parking lot between the theater and the old Dunn Antiques Building on Biltmore Avenue for the start of the bicycle races for the Bele Chere Festival for July 25, 26, and 27, 1986. This motion was seconded by Vice-Mayor Frank and carried unanimously.

AUTHORIZATION TO EXTEND OPTION TO PURCHASE - RONAL WHEELS - PROPERTY LOCATED NEAR THE ASHEVILLE AIRPORT

Councilman Michalove moved to authorize the Mayor to execute an extension of the option to purchase a 16.4 acre tract located near the Asheville Airport by Ronal Wheels until August 30, 1986. Further, that Ronal Wheels submit a proposal for any additional extensions by August 10, 1986. This motion was seconded by Councilman Tisdale and carried unanimously.

AUTHORIZATION FOR CORPORATION COUNSEL TO INSTITUTE LEGAL PROCEEDINGS - DENNIS A. CHADWICK - 80 BEAVERPARK CIRCLE

Vice-Mayor Frank moved that the City Attorney be authorized to institute appropriate legal proceedings against Dennis A. Chadwick and other appropriate parties for violation of the Zoning Ordinance of the City of Asheville at 80 Beaverpark Circle. This motion was seconded by Councilman Tisdale and carried unanimously.

REPORT BY COUNCILMAN TISDALE - ASHEVILLE CABLEVISION COMMISSION

Councilman Tisdale noted that the Asheville Cablevision Commission met on July 14, 1986. He said the City of Asheville did not receive any complaints relative to Asheville Cablevision during the month of June 1986. He said the Commission would not be meeting in August and their next meeting would be on September 8, 1986. He said Joe Haight, General Manager of Asheville Cablevision had advised the Commission members that Asheville Cablevision would be considering a possible 5% increase in the basic service rate in September 1986. He said proper notification of the increase would be given in subscriber's bills and through the news media. He said that Asheville Cablevision would advise Asheville City Council of their decision relative to the increase prior to notification to subscribers. He noted that Asheville Cablevision, under the Cable TV Act has the option to impose such a rate increase.

REPORT BY COUNCILMAN TISDALE - MEETING OF ASHEVILLE TRANSIT AUTHORITY

Councilman Tisdale noted that he had attended the board meeting of the Asheville Transit Authority. He said Don Patton, the new member of the Board was introduced and in his opinion, Mr. Patton would be an asset to the Authority. He noted that the Asheville Transit Authority would be requesting to be heard by the Asheville City Council on July 22, 1986.

Bob Orr, Attorney representing Mr. Duckett, said he has been working with Ms. Brison, Staff Attorney, on an agreement between the City and Mr. Duckett to address the entrance road and fencing on the 50' buffer strip concerns.

Mayor Bissette closed the public hearing at 4:14 p.m.

Upon request from Councilman Michalove on a clarification on the fencing, Mr. Duckett said he is going to install a cedar split rail fence, approximately 400' long, on his property and had agreed to install and pay for a chain link fence, approximately 100' long, on Mr. Ward's property, owner of an adjacent lot.

Councilman Boland moved to approve the site plan based on Mr. Duckett assuming responsibility for paving and the continued maintenance of the unimproved section of Rock Hill Circle, the erection of fences as described by Mr. Duckett, and compliance with the Erosion Control Ordinance. This motion was seconded by Councilman Bratton and carried unanimously.

PUBLIC HEARING - FINAL SITE PLAN - PACK PLAZA PROJECT

3. A public hearing was held relative to the final site plan for the Pack Plaza Project.

Mayor Bissette said the Asheville Planning and Zoning Commission and the Asheville City Council approved the site plan for Pack Plaza in concept in October of 1984. He said approval of "concept" was given primarily because ownership of all properties contained within the site had not be transferred to the developer. He said the acquisition and transfer of property has been completed and the developer is ready to proceed. He said all financial and grant funding has previously been reviewed and approved by the City Council.

Mayor Bissette opened the public hearing at 4:19 p.m.

The City Clerk presented the notice to the public and the affidavit of publication.

Verl Emrick, Director of Planning, said the Planning and Zoning Board had affirmed their recommendation that the project be approved. He pointed out the boundaries of the project on a map. He said he has been told that work on the project would begin August 15, 1986.

Mayor Bissette closed the public hearing at 4:21 p.m.

Councilman Bratton moved to approve the final site plan for the Pack Plaza Project. This motion was seconded by Vice Mayor Frank and carried unanimously.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice Mayor Mary Lloyd Frank; Councilmen Wilhelmina Bratton, Walter R. Boland, Kenneth M. Michalove, and George M. Tisdale; Corporation Counsel William F. Slawter, City Manager Douglas O. Bean, and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Councilman Norma T. Price

INVOCATION

Councilman Bratton introduced Cordell Johnson, President of Asheville Chapter of the N.A.A.C.P., who gave the invocation.

APPROVAL OF THE MINUTES - JULY 15, 1986 MEETING

1. Mayor Bissette announced approval of the minutes of the July 15, 1986, meeting as submitted.

PUBLIC HEARING - SITE PLAN - FOREST RIDGE MOBILE HOME PARK

2. A public hearing was held relative to the site plan of the proposed Forest Ridge Mobile Home Park to be located on Rock Hill Circle.

Mayor Bissette said the Asheville Planning and Zoning Commission at a meeting held May 14, 1986, reviewed a site plan of the proposed Forest Ridge Mobile Home Park to be located on Rock Hill Circle. The plan was prepared by Pankow Engineering Company for Mr. Frank Duckett, Developer, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of the project subject to (1) agreement on entrance road; (2) placement of some fencing within the 50' buffer requirement; and (3) compliance with the Erosion Control Ordinance. He said at the July 8, 1986 meeting, this public hearing was continued without further advertisement.

Mayor Bissette opened the public hearing at 4:10 p.m.

The City Clerk presented the notice to the public and the affidavit of publication.

Verl Emrick, Director of Planning, said the site is located to the North of Rock Hill Road and adjoins the Whispering Pines Mobile Park owned by Marshall Kanner and that acess to the site will be from Rock Hill Circle through an unimproved section of the Circle. He said 4 units were deleted from the plan, leaving a total of 22 units. He said fencing will be provided for the adjacent property owners and the site plan conforms to requirements of Group Development standards. He said an agreement between Mr. Duckett and the City will provide for paving and continued maintenance of the unimproved section of Rock Hill Circle.

Ayes: Councilmen Bratton, Tisdale, Boland, Michalove, Vice Mayor Frank, and Mayor Bissette.

Noes: None

The Mayor then announced that the order entitled: "ORDER AUTHORIZING $3,000,000 EDUCATION, ARTS AND SCIENCE CENTER BONDS", had been adopted.

The City Clerk was thereupon directed to publish each of said orders in The Asheville Times once, and to publish at the foot of each said orders the appended note as required by The Local Government Bond Act, as amended.

Complete text of Ordinance No. 1594 will be found in Ordinance Book 11, at page 33.

Thereupon Councilman Boland introduced the following resolution, a copy of which was distributed to each Councilman present and the title of which was read:

RESOLUTION NO. 86-136 - RESOLUTION CALLING A SPECIAL BOND REFERENDUM

BE IT RESOLVED by the Council for the City of Asheville:

Section 1. A special bond referendum is hereby called to be held in the City of Asheville on Tuesday, September 23, 1986, between 6:30 a.m. and 7:30 p.m., at which there shall be submitted to the qualified voters of the City of Asheville the questions set forth in the Notice of Special Bond Referendum included in Section 3 of this resolution.

Section 2. For said referendum, (i) the regular registration books for elections in the County of Buncombe shall be used, and the registration books, process or records shall be open for the registration of qualified persons and for public inspection in the manner, under the conditions and at the times and places set forth in the Notice of Special Bond Referendum hereinafter provided for,

PUBLIC HEARING - ORDER AUTHORIZING $17,000,000 STREET AND SIDEWALK BONDS AND ORDER AUTHORIZING $3,000,000 EDUCATION, ARTS AND SCIENCE CENTER BONDS

4. Mayor Bissette announced that this was the date and hour fixed by the Council for the public hearing upon the orders entitled "ORDER AUTHORIZING $17,000,000 Street and Sidewalk Bonds" and "ORDER AUTHORIZING $3,000,000 Education, Arts and Science Center Bonds" and that the Council would hear anyone who might desire to be heard on the questions of the validity of any of such orders or the advisability of issuing said bonds.

Mayor Bissette opened the public hearing at 4:21 p.m.

The City Clerk presented the notices to the public and the affidavits of publication.

No one appeared, either in person or by attorney, to be heard on said questions, and the City Clerk announced that no statement in writing had been received by him on the question of the validity of said orders or the advisability of issuing said bonds.

After the Council had heard any persons who requested to be heard, Councilman Michalove moved that the public hearing be closed. The motion was seconded by Councilman Boland and was unanimously adopted. The public hearing was closed at 4:26 p.m.

ORDINANCE NO. 1593 - ORDER AUTHORIZING $17,000,000 STREET AND SIDEWALK BONDS

Thereupon, upon motion of Councilman Boland, seconded by Councilman Frank and carried, the order introduced and passed on its first and second readings on July 8, 1986, entitled "ORDER AUTHORIZING $17,000,000 STREET AND SIDEWALK BONDS", was read a third time by title and placed upon its final passage. The vote upon the final passage of said order was:

Ayes: Councilmen Bratton, Tisdale, Boland, Michalove, Vice Mayor Frank, and Mayor Bissette.

Noes: None

The Mayor then announced that the order entitled: "ORDER AUTHORIZING $17,000,000 STREET AND SIDEWALK BONDS", had been adopted.

Complete text of Ordinance No. 1593 will be found in Ordinance Book 11, at page 32.

ORDINANCE NO. 1594 - ORDER AUTHORIZING $3,000,000 EDUCATION, ARTS AND SCIENCE CENTER BONDS

Thereupon, upon motion of Councilman Frank, seconded by Councilman Boland, the order introduced and passed on its first and second readings on July 8, 1986, entitled "ORDER AUTHORIZING $3,000,000 EDUCATION, ARTS AND SCIENCE BONDS", was read a third time by title and placed upon its final passage. The vote upon the final passage of said order was:

purpose of providing funds, with any other available funds, for constructing, erecting, providing, installing, reconstructing, renovating, replacing, enlarging, expanding, extending, demolishing, improving, grading, draining, landscaping, paving, widening and resurfacing streets and sidewalks, including without limitation bridges, viaducts, causeways, overpasses, underpasses, alleys, curbs and gutters, culverts, drains, traffic controls, signals, markers, lighting, grade crossings and the elimination thereof and grade separations, including the acquisition of necessary land, rights of way, and equipment, and authorizing the levy of taxes in an amount sufficient to pay the principal of and the interest on said bonds, be approved?

#2

Shall the order adopted by the Council of the City of Asheville, North Carolina, authorizing Education, Arts and Science Center Bonds of the City of Asheville, North Carolina, in an aggregate principal amount not exceeding $3,000,000 for the purpose of providing funds, with any other available funds, for renovating, constructing, reconstructing and expanding existing buildings and additional facilities for use as an education, arts and science center, including the acquisition of any necessary equipment and furnishings, and authorizing the levy of taxes in an amount sufficient to pay the principal of and the interest on said bonds, be approved?

Each of the questions hereinabove set forth contains a statement of the purpose for which the bonds are authorized by the order referred to in such question.

If said bonds are issued taxes in an amount sufficient to pay the principal and interest thereof will be levied upon all taxable property in the City of Asheville.

For said referendum the regular registration books for elections in the County of Buncombe will be used and the registration books, process or records will be open for the acceptance of registration applications and the registration of qualified persons (i) from 8:30 a.m. until 5:00 p.m. on Monday through Friday,

(ii) the registrars, judges and other officers of elections appointed by the Buncombe County Board of Elections for the several precincts and voting places in the City of Asheville shall be the election officers for such precincts and voting places, and (iii) the precincts and voting places shall be those fixed by said County Board of Elections as provided in said Notice of Special Bond Referendum, subject to change as provided by law. The Buncombe County Board of Elections is hereby requested to conduct said referendum and to take all necessary steps to that end in accordance with the provisions of this resolution.

Section 3. The City Clerk shall cause a notice to be published in The Asheville Times once at least fourteen days before August 25, 1986 (being the last day on which persons may register for said referendum except as otherwise provided in said notice set forth in this Section) and once again not less than seven days before such day, such notice to read substantially as follows:

NOTICE OF SPECIAL BOND REFERENDUM
to be held in the
CITY OF ASHEVILLE, NORTH CAROLINA
on September 23, 1986

A special bond referendum will be held throughout the City of Asheville between 6:30 a.m. and 7:30 p.m., on Tuesday, September 23, 1986, at which there will be submitted to the qualified voters of said City the following questions:

#1

Shall the order adopted by the Council of the City of Asheville, North Carolina, authorizing Street and Sidewalk Bonds of the City of Asheville, North Carolina, in an aggregate principal amount not exceeding $17,000,000 for the

notice of election day transfer in accordance with the procedures set forth in Section 163-72.3 of the General Statutes of North Carolina at the precinct in which he is registered and record a change of address on the date of the referendum and vote in the office of the Buncombe County Board of Elections mentioned above or at such other location as specified by the Buncombe County Board of Elections.

The last day for new registration of those not now registered under Buncombe County's permanent registration system is Monday, August 25, 1986.

Except as provided above, the last day on which registered voters, who have changed residence from one precinct to another may transfer registration is Monday, August 25, 1986.

Any qualified voter of the City who is qualified to vote by absentee ballot in said special bond referendum may apply to the Buncombe County Board of Elections for an absentee ballot. Certain persons in the armed forces and their spouses, certain veterans, certain civilians working with the armed forces and members of the Peace Corps who are qualified to vote by absentee ballot pursuant to Section 163-245 of the General Statutes of North Carolina may also apply for an absentee ballot as provided by Section 163-247 of the General Statutes of North Carolina.

Persons who are not certain whether they are registered to vote or qualified to vote by absentee ballot or who desire further information concerning the registration process or the special bond referendum should contact the Buncombe County Board of Elections at the office of said Board mentioned above.

inclusive, of each week at the office of the Buncombe County Board of Elections located at 189 College Street in Asheville, North Carolina.

In addition, registration applications will be accepted by and qualified persons may also register with the registrars and judges of election for the several precincts in the City.

Also, registration applications will be accepted by and qualified persons may register with roving registrars designated by the Buncombe County Board of Elections at such times and places as may be announced by the Buncombe County Board of Elections.

Furthermore, certain persons in the armed forces and their spouses, certain veterans, certain civilians working with the armed forces and members of the Peace Corps may register by mail at any time prior to said referendum in the manner provided in Article 21 of Chapter 163 of the General Statutes of North Carolina and in person at any time, including the date of said referendum.

Those residents of the City who are presently registered under Buncombe County's permanent registration system and who have not changed residence from one precinct to another since their registration will be permitted to vote in said referendum. A registered voter who has moved from one precinct to another within the City within 30 days before the special bond referendum shall not be deprived of the right to vote in the precinct from which he has moved. Any person who has moved from one precinct to another more than 30 days prior to the special bond referendum but who has not submitted a change of address report as provided in Section 163-72.2 of the General Statutes of North Carolina may obtain a

ASHEVILLE #8	Shiloh Community Center 133 Shiloh Road Asheville, NC 28803
ASHEVILLE #9	Murphy Community Center 749 Fairview Road Asheville, NC 28803
ASHEVILLE #10	Livingston Community Center 133 Livingston Street Asheville, NC 28801
ASHEVILLE #11	South French Broad School 197 S. French Broad Avenue Asheville, NC 28801
ASHEVILLE #12	Hall Fletcher School 60 Ridgelawn Road Asheville, NC 28806
ASHEVILLE #13	Eugene Rankin School 87 Stewart Street Asheville, NC 28806
ASHEVILLE #14	Aycock School 441 Haywood Road Asheville, NC 28806
ASHEVILLE #15	Vance School 98 Sulphur Springs Road Asheville, NC 28806
ASHEVILLE #16	West Asheville Community Center 970 Haywood Road Asheville, NC 28806
ASHEVILLE #17	Unitarian Church 1 Edwin Place Asheville, NC 28801
ASHEVILLE #18	Asheville Country Day School 1345 Hendersonville Road Asheville, NC 28803

William T. Biggers
Chairman of Buncombe County Board
of Elections

The registration books for elections in Buncombe County will be open to inspection by any registered voter of the City during normal business hours of the County Board of Elections on the days when the office of said Board is open prior to the close of the registration books, and such days are challenge days.

The registrars, judges and other officers of elections appointed by the Buncombe County Board of Elections will serve as the election officers for said referendum.

The Buncombe County Board of Elections will conduct said referendum.

The precincts and voting places for said referendum, subject to change as provided by law, are as follows:

PRECINCT	VOTING PLACE
ASHEVILLE #1	City Hall Asheville, NC 28807
ASHEVILLE #2	William Randolph School 90 Montford Avenue Asheville, NC 28801
ASHEVILLE #3	Claxton School 241 Merrimon Avenue Asheville, NC 28801
ASHEVILLE #4	N. Asheville Community Center 37 E. Larchmont Drive Asheville, NC 28804
ASHEVILLE #5	Jones School 544 Kimberly Avenue Asheville, NC 28804
ASHEVILLE #6	East Asheville Community Center 900 Tunnel Road Asheville, NC 28805
ASHEVILLE #7	Kenilworth Presbyterian 123 Kenilworth Road Asheville, NC 28803

existing buildings and additional facilities for use as an education, arts and science center, including the acquisition of any necessary equipment and furnishings, and authorizing the levy of taxes in an amount sufficient to pay the principal of and the interest on said bonds, be approved?

YES

NO

Absentee voting shall be permitted in said referendum. The form of the paper ballots to be used for said referendum (including absentee voting) shall be substantially as follows:

OFFICIAL BALLOT
SPECIAL BOND REFERENDUM
CITY OF ASHEVILLE, NORTH CAROLINA

September 23, 1986

INSTRUCTIONS

a. To vote in favor of an order make a cross (X) mark in the square to the left of the word "YES".

b. To vote against an order make a cross (X) mark in the square to the left of the word "NO".

c. If you tear or deface or wrongly mark this ballot, return it and get another.

#1

STREET AND SIDEWALK BONDS

/___/ YES

/___/ NO

Shall the order adopted by the Council of the City of Asheville, North Carolina, authorizing Street and Sidewalk Bonds of the City of Asheville, North Carolina, in an aggregate principal amount not exceeding $17,000,000 for the purpose of providing funds, with any other available funds, for constructing, erecting, providing, installing, reconstructing, renovating, replacing, enlarging, expanding,

William F. Wolcott, Jr.
City Clerk of the City of
Asheville, North Carolina

Date of Publication: _____

Section 4. That the form of the questions to appear in the ballot frames of or ballot booklets for the voting machines to be used for said referendum shall be substantially as follows:

#1

STREET AND SIDEWALK BONDS	Shall the order adopted by the Council of the City of Asheville, North Carolina, authorizing Street and Sidewalk Bonds of the City of Asheville, North Carolina, in an aggregate principal amount not exceeding $17,000,000 for the purpose of providing funds, with any other available funds, for constructing, erecting, providing, installing, reconstructing, renovating, replacing, enlarging, expanding, extending, demolishing, improving, grading, draining, landscaping, paving, widening and resurfacing streets and sidewalks, including without limitation bridges, viaducts, causeways, overpasses, underpasses, alleys, curbs and gutters, culverts, drains, traffic controls, signals, markers, lighting, grade crossings and the elimination thereof and grade separations, including the acquisition of necessary land, rights of way, and equipment, and authorizing the levy of taxes in an amount sufficient to pay the principal of and the interest on said bonds, be approved?

YES

NO

#2

EDUCATION, ARTS AND SCIENCE CENTER BONDS	Shall the order adopted by the Council of the City of Asheville, North Carolina, authorizing Education, Arts and Science Center Bonds of the City of Asheville, North Carolina, in an aggregate principal amount not exceeding $3,000,000 for the purpose of providing funds, with any other available funds, for renovating, constructing, reconstructing, and expanding

Read, approved and adopted this the 22nd day of July, 1986.

City Clerk Mayor

Thereupon, upon motion of Councilman Boland, seconded by Councilman Frank, the foregoing resolution entitled: "RESOLUTION CALLING A SPECIAL BOND REFERENDUM" was passed by the following vote

Ayes: Councilmen Bratton, Tisdale, Boland, Michalove, Vice Mayor Frank, and Mayor Bissette.

Noes: None

Thereupon, the resolution entitled: "RESOLUTION CALLING A SPECIAL BOND REFERENDUM" was authenticated by the signatures of the Mayor and the City Clerk.

Complete text of Resolution No. 86-136 will be found in Resolution Book No. 16, at pages 97-106.

PUBLIC HEARING -HOLIDAY INN/EAST

ORDINANCE NO. 1595 - AN ORDINANCE ANNEXING A NON-CONTIGUOUS AREA ON TUNNEL ROAD - HOLIDAY INN/EAST

5. A public hearing was held relative to the adoption of an ordinance annexing a non-contiguous area on Tunnel Road - Holiday Inn/East.

Mayor Bissette said a petition requesting annexation of a non-contiguous area has been received from Holiday Inn/East. The City Clerk has investigated and certified the sufficiency of the petition. At the July 8, 1986 meeting, a public hearing was scheduled relative to this annexation. He said this action will result in an increase in assessed valuation of approximately $2.2 million and should result in increased revenue of approximately $17,000 per year. He said there would be no effect on City operating cost.

Mayor Bissette opened the public hearing at 4:31 p.m.

The City Clerk presented the notice to the public and the affidavit of publication.

Patty Tallerday of the Planning Department said the Planning Department had reviewed the property and it does meet the standards for annexation. She said the property is within one mile of the City limits and is served by City water and sewer. She said the Holiday Inn would not require any public works services such as garbage collection and street lighting. She said fire services would be provided by Station 8, Station 9, and the Downtown Fire Station. She said routine and emergency police services would be provided by officers of the Asheville Police Department assigned to zones 4 and 5.

extending, demolishing, improving, grading, draining, landscaping, paving, widening and resurfacing streets and sidewalks, including without limitation bridges, viaducts, causeways, overpasses, underpasses, alleys, curbs and gutters, culverts, drains, traffic controls, signals, markers, lighting, grade crossings and the elimination thereof and grade separations, including the acquisition of necessary land, rights of way, and equipment, and authorizing the levy of taxes in an amount sufficient to pay the principal of and the interest on said bonds, be approved?

#2

EDUCATION, ARTS AND SCIENCE CENTER BONDS

☐ YES

☐ NO

Shall the order adopted by the Council of the City of Asheville, North Carolina, authorizing Education, Arts and Science Center Bonds of the City of Asheville, North Carolina, in an aggregate principal amount not exceeding $3,000,000 for the purpose of providing funds, with any other available funds, for renovating, constructing, reconstructing, and expanding existing buildings and additional facilities for use as an education, arts and science center, including the acquisition of any necessary equipment and furnishings, and authorizing the levy of taxes in an amount sufficient to pay the principal of and the interest on said bonds, be approved?

Special Bond Referendum

[Facsimile of Signature]

September 23, 1986 Chairman, Buncombe County Board of Elections

Section 5. That the City Clerk is hereby directed to deliver or mail a certified copy of this resolution to the Buncombe County Board of Elections and to the State Board of Elections within three days after its passage.

Section 6. This resolution shall take effect upon its passage.

Mayor Bissette, on behalf of the Council and citizens of Asheville, welcomed members of the Langendorf Mandolin Orchestra to the City of Asheville and thanked them for coming to Asheville to participate in the Bele Chere Festival.

PUBLIC HEARING - MORATORIUM - MULTI-FAMILY DEVELOPMENT

ORDINANCE NO. .... - AN ORDINANCE ESTABLISHING A MORATORIUM LIMITING MULTIPLE-FAMILY DEVELOPMENT ON SITES WHERE THE ELEVATION IS 2220 FEET OR GREATER

7. A public hearing was held relative to the adoption of an ordinance establishing a moratorium limiting multiple-family development on sites where the elevation is 2220 feet or greater.

Mayor Bissette said this ordinance will impose a six (6) month moratorium on the issuance of any building, zoning, grading and other construction permits for all multiple-family projects which are proposed to be located on sites where the elevation is 2220 feet or greater and on consideration of any requests for group development reviews by the Planning and Zoning Commission which would be affected by this moratorium in order that studies can be completed for adoption of new zoning regulations for project sites whose elevation is 2220 feet or greater.

Mayor Bissette said this ordinance is being considered by Council because the Council and the Planning and Zoning Commission are currently in the process of developing a Mountainside Ordinance. Mayor Bissette said the Council will schedule a workshop in the next 2 weeks to receive input for the Mountainside Ordinance. He said the date of the workshop would be announced and extended an invitation to developers, engineers, realtors, and the general public to attend.

Mayor Bissette opened the public hearing at 4:44 p.m. and requested that those wishing to speak limit their comments to three (3) minutes.

The City Clerk presented the notice to the public and the affidavit of publication.

Verl Emrick, Director of Planning, said due to several inquiries he would like to clarify that a multi-family dwelling would constitute a dwelling containing three (3) or more families. By use of a map, Mr. Emrick pointed out the areas, which were highlighted by shades of brown, to be affected by the moratorium. He said the darker shade of brown indicated R-1 Residential areas and the lighter shade of brown indicated R-5 Residential and other districts involved. He said the 15% slope is inclusive and is where you begin to find trouble spots in the soil.

Mr. Frank Burke, resident of Black Mountain and Developer, spoke in opposition to the proposed moratorium. He said we currently have the best interest rates and this is the best time to build. He said a moratorium to prohibit building would hurt the citizens of Asheville for a long time.

Mr. Steve Goldstein, Attorney for Holiday Inn/East, said he was present on behalf of his client and would be happy to answer any questions members of Council might have.

Mayor Bissette closed the public hearing at 4:35 p.m.

Mayor Bissette said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety unless there was a specific request to do so.

Councilman Tisdale moved for the adoption of Ordinance No. 1595. This motion was seconded by Councilman Michalove.

On a roll call vote of 6-0, Ordinance No. 1595 passed on first reading.

Councilman Michalove moved to suspend the rules and proceed to the second reading of Ordinance No. 1595. This motion was seconded by Councilman Tisdale and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1595 passed on second reading.

Councilman Michalove moved to suspend the rules and proceed to the third and final reading of Ordinance No. 1595. This motion was seconded by Councilman Tisdale and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1595 passed on third and final reading.

Complete text of Ordinance No. 1595 will be found in Ordinance Book No. 11, pages 34-36.

RESOLUTION NO. 86-135 - A RESOLUTION RECOGNIZING THE LANGENDORF MANDOLIN ORCHESTRA AND THEIR HOSTS AND EXTENDING TO THESE VISITORS ALL BEST WISHES FOR AN ENRICHING AND SUCCESSFUL VISIT IN ASHEVILLE

6. Consideration was given to a resolution recognizing the Langendorf Mandolin Orchestra and their hosts and extending to these visitors all best wishes for an enriching and successful visit in Asheville.

Mayor Bissette read the resolution.

Vice Mayor Frank moved for the adoption of Resolution 86-135. This motion was seconded by Councilman Boland and carried unanimously.

Mr. Doug Michaels, representative of the Friendship Force and Central Methodist Church and also coordinator of the visit, introduced Ebera Hard Malitius, Concert Master of the Langendorf Mandolin Orchestra. Mr. Malitius, on behalf of the group, thanked the Mayor and Council for the resolution and their warm welcome.

Mayor Bissette presented original copies of the resolution to Mr. Malitius and Mr. Doug Michaels.

Mr. Paul Jones, President of the Asheville Board of Realtors, 209 E. Chestnut Street, spoke in opposition to the proposed moratorium. He said there is an ordinance already on file that would be adequate if properly enforced. He said the moratorium is not necessary and would stiffle growth in the City of Asheville during its best time to grow. He said he is willing to work with Council or any other group on the Mountainside Ordinance.

Mr. Harry Giezentanner, 38 Rhododendron Place, read a letter opposing the moratorium on behalf of the commercial and real estate brokers of Asheville and Buncombe County. He distributed copies of the letter to members of City Council.

Mr. Kenny Partin, President of the Homebuilders Association, said he opposed the moratorium and that he supported the statement of opposition made by Paul Jones, President of the Asheville Board of Realtors.

Mr. Larry Nadel, Developer and resident of Columbia, South Carolina, spoke in opposition to the proposed moratorium because of its detrimental effect on the economy.

Carolyn Tingle, Coalition of Asheville Neighborhoods, spoke in support of the moratorium. She said mistakes are visible and permanent. She said the Coalition of Asheville Neighborhoods is not opposed to development, but wants to see guidelines developed that everyone can live with.

Councilman Michalove said he felt in the absence of a mountainside ordinance, the moratorium was a must.

Councilman Boland said he was in favor of a workshop and asked for the cooperation of the real estate community and developers to help come up with a workable document. He said he would support a short moratorium.

Vice Mayor Frank said she would support a short moratorium just to put pressure on the Council to move ahead with the adoption of a mountainside ordinance. She said she is glad the developers are willing to work with the city toward this goal.

Councilman Bratton said she supported the mountainside ordinance, but not the moratorium. She said the Council needs to give direction to the staff by setting a deadline for completion of the mountainside ordinance.

Councilman Tisdale said he is very supportive of a mountainside ordinance, but does question whether or not the moratorium would stand up legally. He said he has been assured by the City Manager and staff that Council would have the mountainside ordinance by September.

Mayor Bissette said he supports a mountainside ordinance. He said the mountainside ordinance is a very difficult and complicated document and this is why the City needs the input of the architects, developers, realtors and citizens of Asheville. He said the City can, and must, develop the mountainside ordinance to protect the beauty of our City. However, he said he could not support a blanket moratorium that affects not only bad but good developments.

Mr. Don Nolkey, resident of Fairview and President of the Asheville Community Investment & Realty Association, spoke against the proposed moratorium. He said he felt the City's present regulations were adequate to take care of any adjustments that may be needed, and the moratorium would be unfair to developers and landowners.

Mr. George Morosani, resident of Cane Creek in the Fletcher area, said he felt the moratorium was a restriction uncalled for and that there were enough rules already in place.

Mr. Roger Grant, Realtor and resident of Town Mountain Road, spoke in opposition to the proposed moratorium. He said the general public should have some time to look into the restrictions.

Upon inquiry of Mr. Grant, Mayor Bissette said that Council had been advised about legal liabilities associated with the moratorium during an Executive Session.

Mayor Bissette explained to Mr. Grant that the purpose of the public hearing today was to receive comments from the public prior to making a decision on the matter.

Mr. Hugh Slussler, Realtor and resident of Bent Creek, said he felt there were already enough restrictions in place, and that the moratorium would take away individual property rights.

Barbara Stout, Realtor and resident of Riceville Road, said people come to Asheville looking for condos and looking for views. She said the moratorium would limit Asheville and its growth.

Mr. Thomas King, King Electric Contractors at 234 N. Leicester Highway and resident of Reems Creek in Weaverville, said the moratorium would have a detrimental effect on property values and could mean a loss of thousands of dollars that were already invested in projects.

Augusta Young, resident of 360 Kenilworth Road, spoke in support of the proposed moratorium. She urged City Council to adopt the moratorium until an ordinance is in place establishing guidelines for mountainside development.

Mr. George Jensen, Engineer with Jensen Engineering at 12 Broad Street, spoke in opposition to the proposed moratorium. He said most of the problems with runoff, drainage, water and sewer are caused by the construction of single family dwellings. He said if a moratorium is imposed, single family dwellings should also be included.

Mr. Ned Guttman, resident of 58 Beechwood Road, spoke in favor of the moratorium saying that he felt the moratorium would not hurt the business of developers and realtors that much for 6 months. He said we don't need the restrictions if we have responsible development. He cited the Windswept and Woodbury projects as examples of bad developments. He said these developments were approved by the City, but yet something went wrong in the governmental process.

HIGHLIGHTS: The United States Department of Transportation requires that certain assurances, certifications and other documents be filed with the appropriate regional office. The Regional Office for the City of Asheville has recently been changed from Atlanta, Georgia, to Philadelphia, Pennsylvania. This resolution will authorize the Mayor to execute and file the one-time submission of assurances with the Philadelphia Regional Office that the City of Asheville is following federal regulations.

FISCAL IMPACT: None

Resolution Book No. 16, page 107.

B. RESOLUTION NO. 86-138 - Resolution authorizing the Mayor to enter into a Municipal Agreement with the North Carolina Department of Transportation relative to Project No. 8.2840101 for replacement of Bridge 743 (Smith Bridge) over the French Broad River on West Haywood Street.

HIGHLIGHTS: This resolution will authorize the Mayor to execute a Municipal Agreement with the North Carolina Department of Transportation relative to Project No. 8.2840101 for replacing approximately 232 linear feet of 12-inch terra cotta sanitary sewer pipe on Bridge 743 (Smith Bridge) over the French Broad River on West Haywood Street. This agreement requires the City of Asheville to reimburse the N. C. Department of Transportation for the cost of the work in one (1) lump sum payment upon completion of the work.

FISCAL IMPACT: The amount of this work is approximately $8,000 and will be appropriated under the Budget Amendment/G-1, currently being considered.

Resolution Book No. 16, page 108.

C. RESOLUTION NO. 86-139 - Resolution authorizing the Mayor to enter into a Municipal Agreement with the North Carolina Department of Transportation relative to Project No. 8.4840301 for construction and improvement of the interchange at N. C. State Highway 191 and U. S. Interstate 40 at the Farmer's Market in Asheville, North Carolina.

HIGHLIGHTS: The N. C. Department of Transportation and the City of Asheville propose to enter into an agreement whereby the Department of Transportation will include in its construction contract provisions to temporarily support and maintain the existing 8-inch C.I. water line and to permanently support the existing water main after the new

Mayor Bissette closed the public hearing at 6:00 p.m.

Councilman Tisdale said because he questions the legality of the moratorium, he could not support it.

Councilman Michalove moved for the adoption of the ordinance changing the period from 6 months to 90 days and changing the dates accordingly. This motion was seconded by Councilman Boland.

On a roll call vote of 3-3, the ordinance failed for a lack of a majority with Councilman Tisdale, Councilman Bratton, and Mayor Bissette voting "no" and Councilman Michalove, Councilman Boland, and Vice Mayor Frank voting "yes".

Councilman Bratton moved to have Council direct the City Manager to have the Planning staff prepare a mountainside ordinance for council's consideration not later than September 30, 1986. This motion was seconded by Councilman Michalove and carried unanimously.

REPORT - WOODBERRY APARTMENT COMPLEX - SITE PLAN - CITY MANAGER

8. City Manager Douglas O. Bean said he has received a new site plan on the Woodberry Apartment Complex today, but that he and the staff had not had time to review the plan prior to the Council Meeting. He said he would have a report on the site plan for Council at next week's meeting.

ORDINANCE NO. 1592 - AN ORDINANCE AMENDING ORDINANCE NO. 322, "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE", AS AMENDED, TO PROVIDE BUFFERING REQUIREMENTS

9. Consideration was given to the third reading of Ordinance No. 1592, an ordinance amending Ordinance No. 322, "an ordinance providing for the zoning of the City of Asheville", as amended, to provide buffering requirements.

Mayor Bissette said there had been several changes made in the ordinance, and in order to give the City Attorney time to thoroughly review these changes, the third reading of the ordinance would be postponed until next week's meeting.

CONSENT AGENDA

Mayor Bissette said the following items are of a routine nature and they have been previously reviewed by the members of the City Council. Therefore, by unanimous vote to approve these items, the City Council may, pursuant to the procedures established in Ordinance No. 1008, adopt all of the items with one motion without the full reading and/or separate motion adopting each individual item. Upon the request of a citizen, a member of the City Council, and/or a member of the City staff, any single item scheduled for approval on the consent agenda may be considered separately.

A. RESOLUTION NO. 86-137 - Resolution authorizing the Mayor to execute and file the necessary asssurances, certifications and other documents required by the United States Department of Transportation with the Philadelphia Regional Office.

Council establish a committee of five (5) to consist of two (2) Council Members, two (2) representatives of the N.A.A.C.P., and one member at large to look into the testing and promotion policy of the Police Department and report back to Council in 30 days.

Mayor Bissette said he thought the committee idea was a good one and asked the City Manager to look into minority hiring not only in the Police Department but in all other departments as well.

Councilman Boland said he felt something should be done about this. He said it is important to take a look at the Asheville Police Department's promotion policy, testing policy, recruitment of police officers, and career paths setting forth requirements for promotions. He said the issue has become symbolic in the black community. He said the City needs to move on this issue and do the right thing.

Vice Mayor Frank said the purpose of the Equal Opportunity Employment Commission is to obtain job equality for women and blacks.

Councilman Bratton said the Council is responsible for making sure that the City is representative throughout its organization and that equal employment is mandated by the Federal Government.

Councilman Bratton said she felt the suggestion for a committee is a workable one and moved that the Council establish a committee of five to be composed of two (2) Members of Council; two (2) representatives of the N.A.A.C.P.; and one (1) member at large. She suggested that Council appoint Bob Smith, Director of the Asheville-Buncombe Community Relations Council, as the member at large, and that this committee report back to the Council in 30 days. This motion was seconded by Councilman Boland.

Councilman Michalove suggested that the Council not pass the motion of Councilman Bratton, but instead ask the Mayor and City Attorney to draft a resolution establishing the committee and its responsibilities for next week's meeting.

Councilman Bratton said Councilman Michalove's suggestion is the spirit of her motion. She and Dr. Boland concurred in Councilman Michalove's recommendation and this was unanimously approved by the Council.

Mr. Steve Wilburn, Colburn Avenue, requested that Council set up a committee to look into equal hiring and promotional opportunities in the City of Asheville and specifically in the Police Department from a policy standpoint and report back in 30 days.

Mary Lewis, W. Chestnut Street, thanked the Council for their action and said she hopes the Council will follow through.

bridge deck has been constructed. This agreement requires the City of Asheville to reimburse the N. C. Department of Transportation for the cost of the work in one (1) lump sum payment upon completion of the work. This resolution will authorize the Mayor to sign the Municipal Agreement.

FISCAL IMPACT: The amount of this work is approximately $9,600.00, which was appropriated by the Asheville/Buncombe Water Authority and funded under code 35-840.

Resolution Book No. 16, page 109.

D. Consideration of a motion scheduling a public hearing relative to the site plan of the proposed Public Storage Facility to be located on Leicester Highway for August 12, 1986.

HIGHLIGHTS: The Asheville Planning and Zoning Commission at a meeting held July 9, 1986, reviewed a site plan of the proposed Public Storage Facility to be located on Leicester Highway. The plan was prepared by Hill-Fister Engineers, Inc., Tucker, Georgia, for Public Storage, Inc., Marietta, Georgia, Developer, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of the project subject to compliance with the Erosion Control Ordinance and provisions of buffering.

FISCAL IMPACT: None

Upon motion of Councilman Boland, seconded by Councilman Tisdale, the Consent Agenda was unanimously adopted.

TESTING/PROMOTIONS - POLICE DEPARTMENT - JOHN HAYES

Mr. John Hayes, 230 Livingston Street, addressed the Council relative to testing and promotions in the Asheville Police Department. He said of the Police Department's 120 officers, only 12 are black, and that the Department's testing would appear to be biased since no black officer can or has passed. He said many of the questions on the test are not relevant to the duties of the job. He said for the past 40 years, blacks have only been promoted as far in ranking as sergeant, and that points are assigned relating to colleges attended and black colleges are assigned fewer points. He said the Police Department should use policies and guidelines recommended by the Equal Opportunity Commission and the Affirmative Action Program and adopt a test similar to those used in cities of comparable size. He said equal points should be assigned from all accredited colleges, and that credit for attendance at the FBI School, the Criminal Justice School at Asheville-Buncombe Technical College, experience, time on the job and training should count toward promotion. He requested that

INDEMNIFICATION AGREEMENT - WRIGHT MOTOR LINES

Vice Mayor Frank moved to authorize the City Manager to execute a letter of indemnification to be given to Wright Motor Lines, Inc. in order that the City may be able to use two flat bed trucks for the Bele Chere Street Dance on July 25, 1986. This motion was seconded by Councilman Tisdale and carried unanimously.

CLAIMS - ALICE CRUZ (SANITATION), KATHERINE BRANK (FIRE), THERESA LEDBETTER (WATER), PAUL McFARLAND (WATER) AND FRANKLYN OWENS (WATER)

The City Manager presented claims received from Alice Cruz (Sanitation), Katherine Brank (Fire), Theresa Ledbetter (Water), Paul McFarland (Water) and Franklyn Owens (Water).

Mayor Bissette referred the claims to the City Attorney for investigation and recommendation.

ADJOURNMENT

Upon motion of Councilman Tisdale, seconded by Counciman Boland, the meeting adjourned at 6:55 P.M.

Marguerite R. Wolcott
CITY CLERK

MAYOR

which would create a safety hazard to the students attending the school or a nuisance to the learning environment of that school. He said one of the alternatives would be to rezone the property to Commercial Highway leaving a 15' strip adjacent to Bell School with the remainder of the property being graded and seeded. He said during the Pre-Council meeting James Williams, Attorney for the Buncombe County Board of Education, presented members of Council with a letter stating that they would be willing to withdraw their objections to the rezoning pending an agreement with the property owner Mr. Frank Kasey. He said the agreement would provide that Mr. Kasey would convey to the Buncombe County Board of Education a portion of the tract of land in question being a small parcel of property located west of the fence line near the western margin of the Kasey property. In addition, the owner would place a green buffer, 15' in width, along the western and northern margin of the property adjacent to the school property. Further, that the owner acknowledge his obligation as an adjacent land owner to provide lateral support to the school property and to take such erosion control methods as are required by law and which will protect the property of the Buncombe County Board of Education from erosion due to any excavation or other activities on his property. He said when the Planning & Zoning Commission reviewed the agreements between the Buncombe County Board of Education and the property owner, Mr. Frank Kasey, had not been present. He said since these agreements were not in the process at that time, the Planning & Zoning Commission had recommended denial of the rezoning petition.

Jack Westall, Attorney for Mr. Frank Kasey, said an agreement had been reached with the Buncombe County Board of Education relative to the property in question. By the use of a map, Mr. Westall showed members of Council the property proposed to be conveyed to the Buncombe Board of Education and the area to be buffered. He said this would allow 35' of the property now zoned R-2 Residential District to be rezoned to CH Commercial Highway District.

Mayor Bissette said during the Pre-Council meeting members of Council indicated they would be willing to consider rezoning 35' of the 50' buffer zone leaving a 15' buffer zoned R-2 Residential District.

At the request of Councilman Tisdale, the following letter from James W. Williams, Attorney for the Buncombe County Board of Education, was made a part of the minutes.

ROBERTS STEVENS & COGBURN, P.A.
Attorneys at Law
Post Office Box 7647
Asheville, NC 28807
July 29, 1986

Honorable W. Louis Bissette, Jr.
Mayor of the City of Asheville
City Building
Asheville, NC 28801

RE: Zoning Petition by Frank Kasey

Dear Mr. Mayor:

The Buncombe County Board of Education has asked me to express its position on the zoning request by Mr. Frank Kasey as evidenced by a petition dated March 17, 1986 with reference to property described as Ward 8, Sheet 31, Lot 201 in the City of Asheville.

Tuesday - July 29, 1986 - 4:00 p.m.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Mary Lloyd Frank; Councilmen Wilhelmina Bratton, Walter R. Boland; Kenneth M. Michalove, Norma T. Price, and George M. Tisdale; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: None

INVOCATION

The invocation was given by Councilman Michalove.

APPROVAL OF THE MINUTES - JULY 22, 1986 MEETING

1. Mayor Bissette announced the approval of the minutes of the July 22, 1986, meeting as submitted with the correction of several typographical errors.

PUBLIC HEARING - REZONING PROPERTY ON U.S. 70 - EAST ADJACENT TO BELL SCHOOL

ORDINANCE NO. 1596 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE" AS AMENDED, AND REPEAL OF SECTIONS OF ORDINANCE NO. 1046 (PROPERTY LOCATED ON U.S. 70 - EAST ADJACENT TO BELL SCHOOL

2. A public hearing was held relative to a request to rezone property on U.S. 70-East adjacent to Bell School from R-2 Residential District to CH Commercial Highway District.

Mayor Bissette said the Asheville Planning and Zoning Commission at a meeting held June 11, 1986, considered the petition of Attorney Jack Westall for Mr. Frank Kasey that Ward 8, Sheet 31, portion of Lot 201, be rezoned from R-2 Residential District to CH Commercial Highway District. The petition also requested the repeal of Ordinance #1046 requiring a 50' green belt and that the 50' green belt be zoned "R-2". The property is located on U.S. 70-East adjacent to Bell School. After review and discussion, the Commission voted to recommend that the petition be denied. However, the petitioner has appealed Planning & Zoning Commission's decision and has asked that a public hearing be scheduled so the rezoning matter can be heard before Council. This public hearing was scheduled at the July 8, 1986 meeting.

Mayor Bissette opened the public hearing at 4:08 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said this property was originally rezoned in 1978, however, Ordinance No. 1046 provided that a 50' strip on Lot 109½ would remain zoned R-2 providing a green belt buffer for the benefit of the Charles Bell School. He said when the Planning & Zoning Commission reviewed the requested rezoning of the property in question, the Buncombe County Board of Education had voiced objections stating that the Bell School site should be protected from any use of adjoining or neighboring properties

Verl Emrick, Director of Planning, said the City staff has received and reviewed a revised site plan and landscaping plan for the Woodberry Apartment Complex. He said the City staff has confirmed with the attorneys and the developer, Mr. Ratliff, that the landscape plan would be acceptable subject to compliance with Section 2F Landscape Work (General Landscaping Requirements) listed below and made a part of the approval of the plan. He said the General Landscape Requirements details how plantings will be done and will guarantee the plantings for one year by the landscaper and thereafter management of the apartment complex would be responsible for maintenance of the plantings. He said the landscaping requirements also stipulate how fertilizing will be done, that tree plantings will commence in the fall, hydroseeding will take place as soon as possible, and that a minimum of 6,500 Virginia Pine and White Pine trees at least, 18"-24" high, will be planted on the bank and in excess of 2,000 Blue Rug Junipers will be planted at the base of the slope. He said the City staff agrees with what the developer has presented and recommends acceptance of the landscaping plan.

Upon inquiry of Councilman Price, Mr. Emrick said it would not be necessary for the amended site plan to again be reviewed by the Planning & Zoning Commission to increase the complex by four units since this will not increase the land being used.

After discussion, Councilman Boland moved to approve the amended site plan for the Woodberry Apartment Complex to allow four additional units to be constructed to Building No. 2. This motion was seconded by Vice-Mayor Frank and carried unanimously.

Councilman Price moved to approve the amended landscaping plan for the Woodberry Apartment Complex dated July 28, 1986 subject to compliance with the attached 2F - Landscape Work (General Landscape Requirements). This motion was seconded by Councilman Boland and carried unanimously.

SECTION 2F - LANDSCAPE WORK

1. GENERAL LANDSCAPE REQUIREMENTS:

a. Landscaping Plan shall be used as a guide to locate individual items specified herein. References either here or on landscaping plan shall apply to the work involved.

b. Submit planting schedule showing coordination of normal planting times with construction schedule for other related work.

c. Planting Season for performing work specified herein shall be limited to the normal period after October 15 for digging plants. However, the contractor, by taking special precautions such as spraying foliage with "Wilt-not", may extend or preceed the normal season. In all cases, the guarantee will remain unchanged.

d. Layout areas of planting and location of each major plant, for review by Architect prior to start of planting. Follow plan as closely as possible.

2. PLANT SIZE AND QUALITY: Provide sizes of plants as shown or scheduled, conforming to ANSI Z60.1 "Standard for Nursery Stock" for shape and quality.

The greatest concern of the Buncombe County Board of Education is that the Bell School site be protected from any use of adjoining or neighboring properties which would create either a safety hazard to the grammar school students attending that school or a nuisance to the learning environment of that school. Mr. Kasey has approached the Board of Education and has offered to convey to the Buncombe County Board of Education a portion of the tract of land in question, being a small parcel of property located west of a fence line near the western margin of the Kasey property. In addition, Mr. Kasey has agreed to place a green buffer fifteen feet in width along the western and northern margin of the property adjacent to the school property. Additionally, Mr. Kasey has agreed to acknowledge his obligation as an adjacent land owner to provide lateral support to the school property and to take such erosion control methods as are required by law and which will protect the property of the Buncombe County Board of Education from erosion due to any excavation or other activities on his property.

The Buncombe County Board of Education is of the opinion that should Mr. Kasey do those things as set forth in the aforesaid paragraph, the Buncombe County Board of Education will continue to enjoy a protected environment for its school and under those circumstances withdraws its objection to the petition of Mr. Kasey dated March 17, 1986.

Very truly yours,

James W. Williams

JWW:cb

Mayor Bissette closed the public hearing at 4:16 p.m.

Mayor Bissette said members of Council were previously furnished copies of the ordinance, however, the ordinance has been amended since it was presented to members of Council to read in Section 1 "that the following property be rezoned from R-2 Residential District to CH Commercial Highway District. All of Ward 8, Sheet 31, Lot 201, except the northern and westernmost 15' as shown on the official zoning maps located in the City Planning Department, said 15' strip to remain zoned R-2 Residential District."

Vice-Mayor Frank moved for the adoption of Ordinance No. 1596. This motion was seconded by Councilman Tisdale.

On a roll call vote of 7-0, Ordinance No. 1596 passed on first reading.

Councilman Tisdale noted that it was the understanding of members of Council that the bank will be seeded and planted with White Pines to stay green all year around.

WOODBERRY APARTMENT COMPLEX SITE PLAN

3. Consideration was given to the revised Woodberry Apartment Complex site plan.

Mayor Bissette said following last week's Council meeting, City staff met with the developer to review his compliance with various City ordinances. A revised site plan was delivered Tuesday, July 22, 1986. Since staff did not have enough time to review the report, it was continued until July 29, 1986.

pockets, watering thoroughly as layers are placed. Build 3" high berm of topsoil beyond edge of excavation. Apply 3" mulch of peat, straw or other recognized organic planting mulch.

b. Prune trees to remove damaged branches, improve natural shape, thin out, structure and remove not more than 15% of branches. Paint cuts more than 1/2" in size with pine tar.

c. Wrap trunk from ground to first branch with tree wrapping tape.

d. Guy and stake trees as detailed with 3 vertical stakes.

e. Excavate Pits or Trench to twice the diameter of balls or containers, or 1' - 0" wider than spread of roots, and 3" deeper than required for positioning at proper height. Compact a layer of topsoil in bottom before placing plants. Backfill around plants with topsoil, compacted to eliminate voids and air pockets. Water thoroughly as layers are placed. Form grade slightly dished, and bermed at edges of excavation. Apply 2" mulch of peat, straw or other recognized organic planting mulch.

f. Prune shrubs to remove damaged branches, improve natural shape, thin out structure and remove not more than 15% of branches.

7. PLANTING GROUND COVER:

a. Cultivate to depth of 8" in areas where topsoil has not been stripped.

b. Loosen subgrade to depth of 4" in areas where topsoil has been stripped, and spread topsoil to depth of 4", except as otherwise indicated.

c. Space plants 2'-0" apart both ways, except as otherwise indicated. Compact backfill to eliminate voids, and leave grade slightly dished at each plant. Water thoroughly. Apply 2" mulch of peat, straw or other recognized organic planting mulch over entire planting bed, lifting plant foliage above mulch.

d. During periods of hot sun and wind at time of planting, provide protective cover for several days.

8. PLANTING LAWNS:

a. Seeding lawns will be restrictive to eliminate the months of June, July, and August.

b. Sod: Clean, strongly rooted, 18" x 4' strips of 2 year old Kentucky 31 Fescue stripped not more than 24 hours prior to laying. Sodding shall be placed on entire width of all drainage swales shown on site plan.

c. Grass Seed: A blend of predominantly Kentucky 31 Fescue seeds, with approximately 20% "nurse-grass" seeds, complying with standards of the Official Seed Analysis of North America, for 85% purity, 80% germination and 1% (max.) weed seed, recommended by

a. Furnish Balled and Burlapped (B&B) trees and shrubs, except container-grown plants may be furnished if indicated size is below limit established in ANSI Z60.1.

b. Deciduous Shrubs may be furnished in bare root condition if adequately maintained and protected from drying through entire transplanting period.

c. Furnish Ground Cover Plants in removable containers or integral peat pots.

3. GUARANTEE: Guarantee Plants, Shrubs, and Trees for a period of one year against death and unhealthy condition, except as may result from neglect by Owner, damage by others, and unusual phenomena beyond installer's control. Replace at optimum planting time. Guarantee period begins at acceptance by HUD.

4. TOPSOIL: Only topsoil free of debris such as weeds, glass, metal cans, stumps, rock over 1" diameter, will be permitted. Representative topsoil samples shall be sent to an independent testing laboratory (e.g. a County Extension Service). Samples shall be analyzed, and nutrient and PH recommendations shall be made for the turfgrass species shown on the plans. A duplicate copy of the test results shall be sent to the Architect.

a. The Contractor shall uniformly spread such amounts of fertilizer and lime as recommended by the testing laboratory. After spreading, fertilizer and lime shall be worked 4 to 6 inches into the soil by harrowing or discing.

5. FERTILIZATION OF SOIL: Provide fertilizer, humus and other soil amendments of a type which are known to improve the PH condition of the soil for the particular plant material to be planted. Mix peat humus (PS-Q-P-166) with topsoil in the ration of 1:3 for use in planting. For basis of quantity, assume topsoil which has not been stripped in 4" depth.

a. Fertilize topsoil for planting trees shrubs and ground cover with a 10% phosphorus, 4% nitrogen and 4% potash commercial fertilizer, applied and mixed at the rate of not less than 0.25 lbs. per cu. ft. of soil and humus.

b. Lime shall be agricultural grade ground limestone, and shall be of such fineness that 90 percent will pass a 10 mesh screen and at least 50 percent will pass a 100 mesh screen. Apply at rate of 140 lbs. per 1000 SF (3 tons per acre).

c. Fertilize topsoil for planting grass with a 10-10-10- commercial fertilizer, applied at a rate of 30 lbs. per 1000 SF (1200 lbs. per acre).

6. PLANTING TREES:

a. Excavate pit to twice the diameter of the tree ball and not less than 6" deeper. Compact a layer of topsoil in pit to locate collar of plant properly in a slightly dished finish grade. Backfill around ball with topsoil, compacted to eliminate voids and air

Mayor Bissette said this ordinance was previously presented to members of Council and would not be read in its entirety unless there was a specific request to do so.

Councilman Michalove moved for the adoption of Ordinance No. 1597. This motion was seconded by Councilman Price.

On a roll call vote of 7-0, Ordinance No. 1597 passed on first and final reading.

Complete text of Ordinance No. 1597 will be found in Ordinance No. 11 at page 38.

ORDINANCE NO. 1598 - BUDGET ORDINANCE AMENDMENT TO ESTABLISH AN APPROPRIATION TO SET UP CENTRAL WAREHOUSING FACILITY

5. Consideration was given to a budget ordinance amendment to establish an appropriation to set up the Central Warehousing Facility.

Mayor Bissette said this budget ordinance amendment will establish an appropriation to set up the Central Warehousing Facility. Projected savings to the City is $50,400.

The City Manager said this budget amendment would provide centralizing purchasing and warehousing facility. He said the capital cost for providing this facility would be approximately $132,000 providing a projected savings of $50,400 per year. He said the Central Warehousing Facility would be located on Hunt Hill Place.

Councilman Boland indicated that the Town of Woodfin, Weaverville, and the County of Buncombe might consider consolidating purchasing and warehousing into this facility. He said the Intergovernmental Committee would be discussing this matter at their next meeting.

Mayor Bissette said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety unless there was a specific request to do so.

Councilman Boland moved for the adoption of Ordinance No. 1598. This motion was seconded by Vice-Mayor Frank.

On a roll call vote of 7-0, Ordinance No. 1598 passed on first and final reading.

Complete text of Ordinance No. 1598 will be found in Ordinance Book No. 11 at page 39.

ORDINANCE NO. 1592 - AN ORDINANCE AMENDING ORDINANCE NO. 322, "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE" AS AMENDED TO PROVIDE BUFFERING REQUIREMENTS

6. Consideration was given to the third reading of Ordinance No. 1592, an ordinance amending Ordinance No. 322, known as "an ordinance providing for the zoning of the City of Asheville" as amended to provide buffering requirements.

producer, for full-sun exposure of lawns in geographic location of project.

d. Hydro seeding slopes shall be with 50/50 mixture of Kentucky 31 Fescue and Crown Vetch at a rate of 2.75 lbs. per 1000 SF with mulch totaling 1-1/2" to 2" loose thickness.

e. Cultivate to a depth of 6" in areas where topsoil has not been stripped, tilling surface to a level, fine texture.

f. Loosen subgrade to a depth of 4" in areas where topsoil has been stripped, spread 2" depth of topsoil, till to mix topsoil with subsoil, spread additional 2" depth of topsoil, till surface to a level, fine texture.

g. Grade and roll prepared lawn surface. Water thoroughly but do not create a muddy soil condition.

h. Lay sod strips with tight joints, roll or tamp lightly, and water thoroughly.

i. Sow grass seed uniformly in two directions at the rate of 2.75 lbs. per 1000 square foot lawn area. Rake seed lightly into top 1/8" of lawn surface. Water thoroughly with a fine spray.

j. Protect seeded areas against erosion by spreading straw to a uniform loose depth of 1-1/2".

9. LANDSCAPE WARRANTY: Warranty landscape work for a period of 60 days immediately following complete installation of each major category of work. Include repairing any erosion, reseeding, cultivating, restoration of grade, pruning trees and shrubs, protection from insects and diseases, fertilizing and similar operations as needed to ensure continued normal growth and good health for live plant material. The "60 day" period shall apply to "areas" or "phases" of work installed, i.e., some areas may have passed the "60 day" period before entire project is complete.

10. GUARANTEE: The General Contractor shall guarantee for a period of one year the establishment and viability of all "lawn" areas and guarantee all plant material (trees, shrubs) to live. Guarantee period includes the warranty period specified herein and shall begin on the date of substantial completion as determined by HUD.

ORDINANCE NO. 1597 - BUDGET ORDINANCE AMENDMENT PROVIDING FUNDING FOR UNDERGROUND WIRING OF WOODFIN STREET - BROADWAY TO LEXINGTON AVENUE

4. Consideration was given to a budget ordinance amendment to provide funding in the amount of $4,478 for underground wiring of Woodfin Street - Broadway to Lexington Avenue.

Mayor Bissette said this budget ordinance amendment in the amount of $4,478 will provide funding for underground wiring of Woodfin Street - Broadway to Lexington Avenue. This charge represents the cost to the City for placing existing primary feeders, secondary and street light circuits underground. Funding from the General Fund - Contingency would be in the amount of $4,478.

RESOLUTION NO. 86-141 - RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT FOR TRANSPORTATION PLANNING SERVICES WITH THE LAND-OF-SKY REGIONAL COUNCIL

8. Consideration was given to a resolution authorizing the Mayor to enter into a contract for transportation planning services with the Land-of-Sky Regional Council.

Mayor Bissette said the Asheville Urban Area Planning Work Program for 1986-87 has been approved to include a total of $41,500 of Planning Funds provided pursuant to Section 112 of the Federal Aid Highway Act of 1973 and Section 104(f) Title 23, United States Code, for the purpose of street and highway planning. This resolution will authorize the Mayor to enter into a contract with the Land-of-Sky Regional Council for completion of four (4) identified transportation planning work elements in an amount not to exceed $3,570.00. Also, the City Manager is authorized to submit any additional information which may be required by the Federal Highway Administration or the North Carolina Department of Transportation.

Mayor Bissette said members of Council were previously furnished copies of the resolution and it would not be read in its entirety unless there was a specific request to do so.

Upon motion of Councilman Michalove, seconded by Councilman Boland, Resolution No. 86-141 was unanimously adopted.

Complete text of Resolution No. 86-141 will be found in Resolution Book No. 16 at page 112.

RESOLUTION NO. 86-142 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE ON BEHALF OF THE CITY OF ASHEVILLE A CONTRACT AND ANY CHANGE ORDERS WITHIN THE BUDGETED AMOUNT WITH TENNOCA CONSTRUCTION COMPANY FOR THE PROJECT KNOWN AS ARCO ROAD BRIDGE REPLACEMENT PROJECT

9. Consideration was given to a resolution authorizing the Mayor to execute on behalf of the City of Asheville a contract and any change orders within the budgeted amount with Tennoca Construction Company for the project known as Arco Road Bridge Replacement Project.

Mayor Bissette said Arco Road Bridge is located upon a City System Street and is in need of replacement due to its age and present condition. This bridge is included in the Federal Aid Off-System Bridge Replacement Program. This resolution will authorize the Mayor to execute on behalf of the City of Asheville a contract with Tennoca Construction Company and any change orders within the budgeted amount for the bridge replacement. Total cost for the project is $96,772.70 and there are sufficient funds in the 60 Fund. The City will receive an 80% reimbursement through the Federal Aid Off-System Bridge Program for eligible expenditures on this project.

Mayor Bissette said members of Council were previously furnished copies of the resolution and it would not be read in its entirety unless there was a specific request to do so.

Upon motion of Vice-Mayor Frank, seconded by Councilman Tisdale, Resolution No. 86-142 was unanimously adopted.

Mayor Bissette said the Asheville Planning and Zoning Commission on March 19, 1986, reviewed a buffering amendment to the zoning ordinance proposed by the Asheville Tree Commission. After some modifications, the Commission voted to recommend approval of the amendment to City Council. This ordinance passed first reading at the July 8, 1986 meeting and second reading on July 15, 1986. At the July 22, 1986 meeting the third reading was postponed until July 29, 1986.

Verl Emrick, Director of Planning, said several changes had been made to the ordinance, mainly changes in phraseology. He also indicated that Section 1, Item 2D, first paragraph, sixth line, the words "and/or the Planning & Zoning Commission" would be deleted.

Councilman Michalove moved to amend Ordinance No. 1592 as indicated by the Planning Director. This motion was seconded by Councilman Bratton and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1592 passed on third and final reading as amended.

Complete text of Ordinance No. 1592 will be found in Ordinance No. 11 at page 28 - 31.

RESOLUTION NO. 86 - 140 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE RELEASES RELEASING JANICE L. BRYANT AND THE ESTATE OF JACK E. BRYANT FROM ANY AND ALL OBLIGATIONS WHICH EITHER MAY HAVE BY AND UNDER THE TERMS AND CONDITIONS OF NOTES PAYABLE TO THE CITY OF ASHEVILLE SECURED BY DEEDS OF TRUST ON PROPERTY LOCATED AT 53 N. MARKET STREET AND THE HAYES & HOPSON BUILDING LOCATED ON SPRUCE STREET

7. Consideration was given to a resolution authorizing the Mayor to execute releases releasing Janice L. Bryant and the Estate of Jack E. Bryant from any and all obligations which either may have by and under the terms and conditions of notes payable to the City of Asheville secured by deeds of trust on property located at 53 N. Market Street and the Hayes & Hopson Building on Spruce Street.

Mayor Bissette said this resolution will authorize the Mayor to execute releases releasing Janice L. Bryant and the Estate of Jack E. Bryant from any and all obligations which either may have by and under the terms and conditions of notes payable to the City of Asheville secured by deeds of trust on property located at 53 N. Market Street and the Hayes & Hopson Building located on Spruce Street.

Mayor Bissette said members of Council were previously furnished copies of the resolution and it would not be read in its entirety unless there was a specific request to do so.

Upon motion of Councilman Tisdale, seconded by Councilman Bratton, Resolution No. 86-140 was unanimously adopted.

Complete text of Resolution No. 86-140 will be found in Resolution Book No. 16 at page 110 and 111.

regulations on limited access highways. He said the Planning & Zoning Commission is currently reviewing these regulations and it has been recommended that the approval of the sign permit be continued pending a report from the Planning & Zoning Commission relative to signs being placed on limited access highways.

Councilman Price moved to continue action on the placement of a sign at the intersection of Highway 74 and I-40 until a report is received from the Planning & Zoning Commission relative to signs being placed on a limited access highway. This motion was seconded by Councilman Boland and carried unanimously.

RESOLUTION NO. - RESOLUTION ESTABLISHING AND APPOINTING AN EQUAL EMPLOYMENT OPPORTUNITY TASK FORCE COMMISSION

13. Mayor Bissette said as requested by representatives of the National Association for the Advancement of Colored People at the last Council meeting, the City Council has agreed to appoint a seven member Equal Employment Opportunity Task Force Commission to examine the City's minority employment situation particularly in the Asheville Police Department.

Mayor Bissette read the resolution stating that Councilman Bratton, Councilman Boland, Robert Smith, Tom Posey, Sheila Fellerath, George Weaver, and Logan Delaney would be appointed as members of the Commission.

John Hayes, an N.A.A.C.P. spokesman who requested the Task Force last week, and the Reverend Lynwood Leverette, another member of the organization, said the N.A.A.C.P. had requested that they be appointed to the Task Force. Both individuals objected to the individuals being appointed to the Commission.

Several Council Members said they had understood that the N.A.A.C.P. had recommended a list of five people, including the names of Johnny Hayes and Reverend Leverette, any two of whom would be satisfactory to the organization and the Council choose two others on the list.

Mr. Hayes and Reverend Leverette said they felt the Commission would be "lopsided" and requested that Council take another look at the appointments.

After a lengthy discussion, Mayor Bissette said he would speak with the N.A.A.C.P. Chairman to determine the organization's wishes before the appointments are made and that the matter would be considered at next week's meeting.

RESOLUTION NO. 86-143 - RESOLUTION AUTHORIZING THE CHIEF OF POLICE TO EXECUTE A GRANT AWARD AGREEMENT WITH THE NORTH CAROLINA DEPARTMENT OF ADMINISTRATION

14. Consideration was given to a resolution authorizing the Chief of Police to execute a grant award agreement with the North Carolina Department of Administration.

The City Manager read the resolutions stating that the Asheville Police Department has applied and been award a Victims of Crime Act Grant. He said the Asheville Police Department feels this grant will provide better service to the community by providing equipment and training for officers in the area of juvenile and adult sexual assault and victim assistance.

Upon motion of Vice-Mayor Frank, seconded by Councilman Tisdale, Resolution No. 86-143 was unanimously adopted.

Complete text of Resolution No. 86-142 will be found in Resolution Book No. 16 at page 113.

SCHEDULING PUBLIC HEARING - REZONING PROPERTY LOCATED ON CAMPGROUND ROAD AND U.S. 70-EAST

10. Consideration was given to a motion granting a request for an extension of time regarding rezoning property located on Campground Road and U.S. 70-East and scheduling a public hearing for August 19, 1986.

Mayor Bissette said the Asheville Planning and Zoning Commission at a meeting held April 9, 1986, considered the petition of Mr. R.S. Craig by Mr. Lee Towery, Realtor, that Ward 8, Sheet 31, Lot 16, be rezoned from R-2 Residential District to CS Commercial Service District. The property is located on Campground Road and U.S. 70-East. After review and discussion, the Commission voted to recommend that the petition be denied and the property remain as it is now zoned. However, the petitioner is asking for an extension of time to appeal the Planning and Zoning Commission's decision, since they were out of the country and unable to return in time to appeal within the time frame allowed.

Councilman Boland moved to grant a request for an extension of time regarding rezoning property located on Campground Road and U.S. 70-East and scheduling a public hearing relative to rezoning the property for August 19, 1986. This motion was seconded by Councilman Tisdale and carried unanimously.

SCHEDULING PUBLIC HEARING - CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY - BEAVER LAKE CAB COMPANY

11. Consideration was given to a motion scheduling a public hearing authorizing the issuance of a Certificate of Public Convenience and Necessity to Beaver Lake Cab Company for August 19, 1986.

Mayor Bissette said the City Manager will be authorized to issue a Certificate of Public Convenience and Necessity to Beaver Lake Cab Company pursuant to Section 27-34 of the Code of Ordinances of the City of Asheville upon proof of financial responsibility in accordance with N. C. Gen. Stat., Sec. 20-280.

Councilman Michalove moved to schedule a public hearing authorizing the issuance of a Certificate of Public Convenience and Necessity to Beaver Lake Cab Company for August 19, 1986. This motion was seconded by Councilman Tisdale and carried unanimously.

APPROVAL OF SIGN AT INTERSECTION OF HIGHWAY 74 AND I-40

12. Consideration was given to a motion approving the placement of a sign at the intersection of Highway 74 and I-40.

Mayor Bissette said Southern Railroad has requested approval of a 10' x 30' off-premises advertising sign to be located at the intersection of Highway 74 and I-40. Pursuant to the Zoning Ordinance, Ordinance No. 322, City Council must approve the placement of this sign since it will be situated closer than 600' from a limited access highway.

Mayor Bissette said several months ago members of Council had requested that the Planning and Zoning Commission review the current sign

RALPH BISHOP - OBTAINING RECORDS FROM THE POLICEMEN'S PENSION AND DISABILITY BOARD OF TRUSTEES

18. Ralph Bishop again spoke to members of Council relative to obtaining public records from the Policemen's Pension and Disability Board of Trustees and Board of Examiners.

CLAIMS - RHONDA TANNER (WATER) - KEITH A. CURTIN (POLICE)

The City Manager presented claims received from Rhonda Tanner and Keith A. Curtin.

Mayor Bissette referred the claims to the Corporation Counsel for investigation and recommendation.

LAWSUIT - W. R. MARTIN CORPORATION AND SOUTHERN U.S. REALTY CORPORATION VS. CITY AND CITY COUNCIL

The City Manager presented a lawsuit received from W. R. Martin Corporation and Southern U.S. Realty.

Mayor Bissette referred the lawsuit to the Corporation Counsel for investigation and recommendation.

ADJOURNMENT

Upon motion of Councilman Boland, seconded by Councilman Tisdale, the meeting adjourned at 5:40 p.m.

CITY CLERK

MAYOR

Complete text of Resolution No. 86-143 will be found in Resolution Book No. 16 at page 114.

ORDINANCE NO. 1599 - BUDGET ORDINANCE AMENDMENT TO RECOGNIZE REVENUE AND APPROPRIATE FUNDING FOR THE VICTIMS OF CRIME GRANT

15. Consideration was given to a budget ordinance amendment to recognize revenue and appropriate funding in the amount of $6,474.00 for the Victims of Crime Grant.

The City Manager presented the budget ordinance amendment.

Councilman Tisdale moved for the adoption of Ordinance No. 1599. This motion was seconded by Vice-Mayor Frank.

On a roll call vote of 7-0, Ordinance No. 1599 passed on first and final reading.

Complete text of Ordinance No. 1599 will be found in Ordinance Book No. 11 at page 40.

RESOLUTION NO. 86-144 - RESOLUTION AUTHORIZING THE SALE BY THE COUNTY OF BUNCOMBE OF TAX LOT IDENTIFIED AS WARD 7, SHEET 2, LOT 198 (BILTMORE AVENUE AND SWANNANOA RIVER)

16. Consideration was given to a resolution authorizing the sale by the County of Buncombe of Tax Lot identified as Ward 7, Sheet 2, Lot 198 (Biltmore Avenue and Swannanoa River).

Mayor Bissette requested that he be excused from participation and vote on this particular resolution since his law firm represents the perspective buyer, Burger King.

Councilman Michalove moved to excuse Mayor Bissette from participation and vote on the resolution authorizing the sale of the Tax Lot to Burger King. This motion was seconded by Councilman Price and carried unanimously.

Corporation Counsel Slawter said this resolution would authorize the sale of Ward 7, Sheet 2, Lot 198 on Biltmore Avenue and Swannanoa River Road to Burger King Incorporated. He said it has now been determined that the Tax Lot does not need to be retained by the City of Asheville and can be released by the City subject to retention of an additional 30' right-of-way along Biltmore Avenue at a price of not less than $10,200.

Upon motion of Councilman Tisdale, seconded by Councilman Price, Resolution No. 86-144 was unanimously adopted.

Complete text of Resolution No. 86-144 will be found in Resolution Book No. 16 at page 115.

REPORT REQUESTED RELATIVE TO BREAK-INS AND ROBBERIES ON GRIFFING BOULEVARD AND GRACELAND AVENUE

17. Mayor Bissette said he had received a number of calls from the residents in the area of Griffing Boulevard and Graceland Avenue relative to break-ins and robberies. He said the people in the neighborhood are extremely concerned about the number of break-ins and robberies recently in the area. He requested that the City Manager look into this matter.

Commission's decision and has asked that a public hearing be scheduled so the rezoning matter can be heard before Council. This public hearing was scheduled at the July 15, 1986, Council Meeting.

Mayor Bissette opened the public hearing at 4:16 p.m.

The City Clerk presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said the Asheville Planning and Zoning Commission had recommended denial of the petition for rezoning as presented. He said the Planning and Zoning Commission did, however, recommend that Council rezone a 50' strip, to be a buffer, on the eastern margin of the property, to R-2 Residential District. By the use of a map, Mr. Emrick showed the location of the property in question.

He said the Planning Department received from the Malvern Hills Association a protest petition; however, he was not prepared to say whether or not the protest petition is still valid or in effect, or whether or not it has been withdrawn due to an agreement which has been reached between the petitioner and the adjoining property owners. He said if, indeed, the petition is in effect, it will be determined whether or not the 20% rule applies and, if so, this would require a 3/4 vote or 6 affirmative votes of members of Council to rezone the property.

Larry Kimel, Attorney for the Petitioner, Mr. Bobby Barbour, said a meeting with the Malvern Hills Homeowners Association was held, and a committee was formed and subsequently a memorandum of agreement was entered into which provides that the petitioner would agree to a 35' buffer to remain in its natural setting along a residential area; a 25' buffer strip along a portion of another residential area; slopes not steeper than 2-1 and planted; that an additional area be rezoned from Commerical Highway to R-2 Residential; that the creek be moved to along the residential lots; that the property east of the creek be zoned Commercial Highway; that the property west of the creek remain zoned R-2 Residential District and that there be no commercial access road leading into School Road from the property. By the use of a map, Mr. Kimel explained the different areas in question.

Walter Byerly, on behalf of the Malvern Hills Association, questioned whether or not the lot numbers specified in the ordinance were correct. He requested that Council look into the correct lot numbers. He said the residents' main concern was that there not be a commercial access into School Road. He said the Malvern Hills Homeowners Association would have no objections to the rezoning if all provisions of the agreement are as stated by Attorney Kimel.

Councilman Price noted that, although the members of Council were happy that the petitioner and the homeowners in the area could reach an agreement, the City Council could not legally be a part of that agreement.

Walter Byerly requested that in the future when notices to public are made relative to rezoning of property that a street address be put into the notice rather than describing the property by ward, sheet, and tax lot number designations.

Tuesday - August 5, 1986 - 4:00 p.m.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Mary Lloyd Frank; Councilmen Walter R. Boland; Kenneth M. Michalove, Norma T. Price, and George M. Tisdale; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Councilman Wilhelmina Bratton

INVOCATION

1. The invocation was given by Mayor Bissette.

APPROVAL OF THE MINUTES - JULY 29, 1986 MEETING

2. Consideration was given to the approval of the minutes of the July 29, 1986, meeting.

Mayor Bissette announced the approval of the minutes as submitted.

PROCLAMATION - AUGUST 30 - "GOOMBAY DAY"

3. Mayor Bissette read a proclamation proclaiming Saturday, August 30, 1986, as "Goombay Festival Day."

Mayor Bissette presented the proclamation to David Jones and Wanda Henry-Coleman with the YMI Cultural Center.

PROCLAMATION - SATURDAY, SEPTEMBER 6 - "FIRST ANNUAL BILTMORE VILLAGE FESTIVAL DAY"

4. Mayor Bissette read a proclamation proclaiming September 6, 1986, as the "First Annual Biltmore Village Festival Day."

Mayor Bissette presented the proclamation to Mary Hyde, Festival Coordinator, and Patricia Williams, President of the American Association of University Women.

PUBLIC HEARING - REZONING PROPERTY - 1616 PATTON AVENUE

5. A public hearing was held relative to rezoning property located at 1616 Patton Avenue from R-2 Residential District to CH Commercial Highway District.

Mayor Bissette said the Asheville Planning and Zoning Commission at a meeting held June 11, 1986, considered the petition of Mr. Bobby Barbour that a portion of Lot 1, Sheet 24, Ward 5, be rezoned from R-2 Residential District to CH Commercial Highway District. The property is located at 1616 Patton Avenue. After review and discussion, the Commission voted to recommend that the petition be denied and that a portion of Lot 1, Sheet 24, Ward 5, be rezoned from CH to R-2 Residential District to provide a buffer on the eastern property line of Lot 1. However, the petitioner has appealed Planning and Zoning

RESOLUTION NO. 86-145 - RESOLUTION ESTABLISHING AN EQUAL EMPLOYMENT OPPORTUNITY TASK FORCE

7. Consideration was given to a resolution establishing an Equal Employment Opportunity Task Force.

Mayor Bissette read the resolution stating that the City Council desires to establish a Task Force with the following duties: A) to study and evaluate the existing policies, practices and procedures of the City regarding equal employment opportunities; B) to make recommendations to the Council based upon its findings, with its initial report to be within sixty (60) days.

Mayor Bissette said the initial members of the task force would be Councilman Wilhelmina Bratton as Chairman, Councilman Walter R. Boland, Robert Smith, Thomas Posey, Sheila Fellerath, Reverend O. T. Tomes, and John R. Hayes.

Councilman Boland moved for the adoption of Resolution 86-145. This motion was seconded by Vice-Mayor Frank.

Councilman Michalove, commenting on the resolution, said a few weeks ago Council was presented with concerns by representatives of the N.A.A.C.P., in particularly with reference to black male employment and promotions in the Police Department and the N.A.A.C.P. representative, Johnny Hayes, requested that Council appoint a committee to look into these and other matters. He said he felt the N.A.A.C.P. is an appropriate body to make such a request but he felt what Council has done, at this point, is to broaden that concern to study and evalute the existing policies, practices, and procedures of the City reqarding equal employment opportunities. He said the City of Asheville has an organization in the community that is substantially funded by the City of Asheville, the Asheville-Buncombe Community Relations Council, and having worked in a government capacity for about 18 years, he knew what this organization means to the community. He said after researching what Council had chartered the Asheville-Buncombe Community Relations Council to do, back in the 1970's, being that the objectives of the Community Relations Council are to centralize the individual and community resources by combining the private, governmental, and voluntary efforts in a community attack to solve human problems as they relate to racial, ethnic origin, religion and class relationships; to provide information and opportunities for open discussions and actions in solving the sensitive problems involved in intergroup relations; to secure steady progress in Asheville and Buncombe County toward employment on merit without regard to race, ethnic origin, religious belief, or class; to create a community in which the dignity and work of each individual is respected on its own merits and to bring coordinating leadership of all organizations that are working to solve human relations and to make sure they are working in the same direction and to make sure they are doing what is relevant to the situation. He said he felt the point that the N.A.A.C.P. has brought out is not an uncommon concern in the black community and has been one for several years, being the promotions as they relate to the Asheville Police Department. He said in considering appointments to this broadbased committee, Council appointed two Council Members which were recommended by the N.A.A.C.P. and two representatives from the Asheville Civil Service Board, since that Board plays a very vital role in the hiring of employees. He said he is concerned that the City of Asheville has other groups in the community that are concerned about equal employment opportunities and Council did not give them an opportunity to have a voice or input into the committee appointments. He said such organizations are the Commission on the Status of Women, the Mayor's

Mayor Bissette again noted that City Council members could not legally consider the agreement between the petitioner and the property owners in the rezoning matter.

Mary Harkins, of 225 School Road, requested that a buffer strip that had been cut down be replanted.

Attorney Kimel informed Mrs. Harkins that the area would be replanted with white pines as specified in the Memorandum of Agreement.

Mayor Bissette closed the public hearing at 4:36 p.m.

Councilman Tisdale moved to postpone consideration of the first reading of the ordinance until the exact boundaries to be rezoned could be specified and further that the protest petition be addressed. This motion was seconded by Councilman Boland and carried unanimously.

Mayor Bissette requested that the City staff prepare an ordinance for consideration at next week's meeting.

ORDINANCE NO. 1596 - AN ORDINANCE AMENDING ORDINANCE NO. 322 KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE" AS AMENDED, AND REPEAL SECTIONS OF ORDINANCE NO. 1046 (PROPERTY LOCATED ON U.S. 70-E ADJACENT TO BELL SCHOOL)

6. Consideration was given to the second reading of Ordinance No. 1596, an ordinance amending Ordinance No. 322 known as "an ordinance providing for the zoning of the City of Asheville" as amended, and repeal sections of Ordinance No. 1046, property located on U.S. 70-E adjacent to Bell School.

Mayor Bissette said the Asheville Planning and Zoning Commission at a meeting held June 11, 1986, considered the petition of Attorney Jack Westall for Mr. Frank Kasey that Ward 8, Sheet 31, portion of Lot 201, be rezoned from R-2 Residential District to CH Commercial Highway District. The petition also requested the repeal of Ordinance #1046 requiring a 50' green belt and that the 50' green belt be zoned "R-2". The property is located on U.S. 70-E adjacent to Bell School. After review and discussion, the Commission voted to recommend that the petition be denied. However, the petitioner has appealed Planning & Zoning Commission's decision and has asked that a public hearing be scheduled so the rezoning matter can be heard before Council. This ordinance passed first reading at the July 29, 1986 meeting with an amendment to provide a 15' green belt and that the 15' green belt area remain zoned R-2 Residential District.

Mayor Bissette said that it was his understanding that an agreement relative to the rezoning had been reached between the Buncombe County Board of Education and the property owner, Mr. Frank Kasey. He said it was also his understanding that a deed to a portion of the property had been tendered to the Attorney for the Buncombe County Board of Education.

Mayor Bissette said this ordinance was previously read on first reading and would not be reread in its entirety unless there was a specific request to do so.

On a roll call vote of 6-0, Ordinance No. 1596 passed on second reading.

until 12:00 Midnight for "Goombay Festival". The closing of these streets would not create an undue hardship or inconvenience.

FISCAL IMPACT: None

Resolution Book 16, page 117.

Resolution No. 86-147

B. Consideration of a resolution authorizing the City Manager to enter into a Lease Agreement with Robert L. Brummond d/b/a Handi-Com for space at the City's Patton Mountain site for the purpose of operating an FM Radio Transmitter.

HIGHLIGHTS: The City of Asheville owns, operates, and maintains a radio tower located at Patton Mountain for the purpose of transmitting and receiving FM and TV signals. Robert L. Brummond d/b/a Handi-Com would like to lease space from the City at its Patton Mountain site for transmitting two-way FM radio signals in and around the Asheville/Buncombe County area. This will be for coordinating handicapped transportation services in the Asheville/Buncombe County area.

FISCAL IMPACT: This contract will not generate any revenue. The City will provide electrical services at a cost of approximately $12.00 to $15.00 per month.

Resolution Book 16, page 118.

Resolution No. 86-148

C. Consideration of a resolution authorizing the City Manager to sign a service maintenance agreement with Continental Telephone Company of North Carolina.

HIGHLIGHTS: This resolution will authorize the City Manager to enter into a contract with Continental Telephone Company of North Carolina (Contel) for one year to maintain the City's telephone system.

FISCAL IMPACT: The maintenance agreement is $9,900.00 per year.

Resolution Book No. 16, page 119.

D. Consideration of a motion to schedule a public hearing for the final plat of the Schwab Construction Company Subdivision to be located off Lakeshore Drive for August 26, 1986.

HIGHLIGHTS: The Asheville Planning and Zoning Commission at a meeting held June 11, 1986, approved the preliminary plat subject to the developer providing a 16' wide paved drive to all four parcels and recommending that City Council consider placing a caution signal light and signage on each side of the entrance road. The final plat of the Schwab Construction Company Subdivision is to be located off Lakeshore Drive. This plat was prepared

Committee on Employment of the Handicapped, and the American Association of Retired People. He said he felt these organizations are really target groups that Council should conscious of in dealing with promotions, hiring, etc. He said it would have been his preference to have Council appoint two Council members, two representatives from the Civil Service Board, and the City Manager; and to request that the Asheville-Buncombe Community Relations Council add to that appointment list representatives from the various organizations as they saw fit as it relates to equal employment opportunities. He said he would hope that if the request arises from these organizations that the Council either appoint a representative to this task force from the organizations or at least give them an opportunity to participate.

Mayor Bissette indicated that members of Council felt it would be more effective to have a small task force.

John Hayes, with the N.A.A.C.P., said he felt the N.A.A.C.P. is a broad-based organization and would be concerned with everyone.

Upon inquiry of Mr. Hayes, Mayor Bissette said even though the resolution requested that the initial report from the task force be within sixty (60) days that if a report is ready before then Council would be willing to accept the report at any time.

Upon inquiry of Ralph Bishop, Mayor Bissette said this task force would not take away the right of the City Manager to hire employees for the City of Asheville.

On a voice vote, Resolution No. 86-145 was unanimously adopted.

Complete text of Resolution No. 86-145 will be found in Resolution Book No. 16 at page 116.

APPROVAL OF THE CONSENT AGENDA

8. Consideration was given to a motion approving the consent agenda.

Mayor Bissette said the following items are of a routine nature and they have been previously reviewed by the members of the City Council. Therefore, by unanimous vote to approve these items, the City Council may, pursuant to the procedures established in Ordinance No. 1008, adopt all of the items with one motion without the full reading and/or separate motion adopting each individual item. Upon the request of a citizen, a member of the City Council, and/or a member of the City staff, any single item scheduled for approval on the consent agenda may be considered separately.

Resolution No. 86-146

A. Consideration of a resolution authorizing the closing of a portion of Market Street and Eagle Street on Saturday, August 30, 1986 from 12:00 Noon until 12:00 Midnight for a "Goombay Festival".

HIGHLIGHTS: This resolution will authorize the City Manager to cause the closing of Market Street from the ABC Store to the YMI Cultural Center and Eagle Street from the YMI Cultural Center to Mt. Zion Church on Saturday, August 30, 1986 from 12:00 Noon

REPORT ON INTERGOVERNMENTAL SERVICES COMMITTEE MEETING

Vice-Mayor Frank said the Intergovernmental Services Committee, consisting of Councilman Boland, Councilman Tisdale, Vice-Mayor Frank, and Buncombe County Commissioners Tom Sobol and Wayne Montgomery was held today at 12:30 p.m. She said the members discussed the plan for the County-wide MSD sewer system and a proposal for implementing the 911 Emergency Telephone System throughout the County. She said after discussion the members of the Intergovernmental Services Committee indicated that they would take the matters back to their respective bodies and try to reach an agreement by the middle of September. She said the committee also discussed central purchasing and warehousing and the Buncombe County Commissioners would be sent a copy of the City's plan for central purchasing and warehousing. She said the next meeting of the Intergovernmental Services Committee would be on September 2, 1986.

MAYOR BISSETTE - STATUS OF ACTUARIAL REPORT

Mayor Bissette said a memorandum has been sent to all members, retirees, and survivors covered under the Asheville Policemen's Pension and Disability Trust Fund. He said the memorandum would advise these members that the plan actuary is proceeding with an acturarial review of the questions submitted by the Police Pension Task Force. He said a list of eight specific questions to the plan actuary was reviewed to determine what financial impact various proposed changes to the pension fund would have on plan members and the City of Asheville. He said to date, the plan actuary has completed a review of the first six questions but is still working on the final two. He said these two questions involve the issues of Social Security's coverage for members of the plan and additional acturarial data required from the Local Government Employee's Retirement System. He said the plan actuary has informed City staff that a complete report should be ready sometime around the first part of September. He said as soon as the report is available the task force will review it in its entirety and report to all concerned parties.

CLAIMS - WILLIAM HALFEX (WATER) - WILLIAM G. CROMER (WATER) - CITY ASSETS CORPORATION (WATER)

The City Manager presented claims received from William Halfex, William G. Cromer, and City Assets Corporation.

Mayor Bissette referred the claims to the Corporation Counsel for investigation and recommendation.

RALPH BISHOP - RIGHT TO SEEK REDRESS - LOTTERY PEDDLERS

Ralph Bishop again spoke to members of Council relative to his right to seek redress from the Asheville City Council and expressed distress that the Mayor stopped him from stating his facts. He also spoke relative to the lottery sales in the City of Asheville.

ADJOURNMENT

Upon motion of Councilman Tisdale, seconded by Vice-Mayor Frank, the meeting adjourned at 5:00 p.m.

MAYOR

William J. Wescott II
CITY CLERK

by Webb Morgan, R.L.S., for Schwab Construction Company, Developer, and submitted in accordance with Ordinance #424, as amended.

FISCAL IMPACT: None

E. Consideration of a motion to schedule a public hearing for an ordinance amending Ordinance No. 1487, an ordinance to provide for the control of soil erosion and sedimentation for August 19, 1986.

HIGHLIGHTS: Cities and Counties having Soil Erosion and Sedimentation Ordinances are required to have ordinances that comply with the "State Model Ordinance". Last year the State adopted a new model ordinance that requires all cities and counties amend their current ordinances.

FISCAL IMPACT: None

Upon motion of Vice-Mayor Frank, seconded by Councilman Tisdale, the Consent Agenda was unanimously approved.

RESOLUTION NO. 86-149 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A LEASE AGREEMENT WITH WASV-TV, INC. FOR SPACE FROM THE CITY OF ASHEVILLE AT THE CITY'S WHITE FAWN RESERVOIR SITE FOR THE PURPOSE OF OPERATING A TV TRANSMITTER

9. Consideration was given to a resolution authorizing the City Manager to enter into a lease agreement with WASV-TV, Inc. for space from the City of Asheville at the City's White Fawn Reservoir Site for the purpose of operating a TV transmitter.

Mayor Bissette requested that he be excused from vote and participation on this resolution since his law firm represents WASV-TV, Inc.

Councilman Price moved to excuse Mayor Bissette from vote and participation in the resolution regarding the lease agreement with WASV-TV, Inc. This motion was seconded by Councilman Boland and carried unanimously.

Vice-Mayor Frank said the City owns, operates, and maintains a radio tower located at White Fawn Reservoir, on Windswept Drive in Asheville for transmitting and receiving FM and TV signals. WASV-TV, Inc. would like to lease space from the City of Asheville at White Fawn for the purpose of transmitting UHF-TV signals. WASV-TV is a new commercial UHF station in the Asheville area. Under the terms of the agreement, WASV-TV will ultimately build a new tower at White Fawn and convey ownership of the new tower to the City, for future rent free operation. The first year will generate $3,600.00 in revenues. Future revenues from a new tower could reach $30,000.00 annually.

Upon motion of Councilman Michalove, seconded by Councilman Tisdale, Resolution No. 86-149 was unanimously adopted.

Complete text of Resolution No. 86-149 will be found in Resolution Book No. 16 at page 120.

PUBLIC HEARING - CREATION OF THE CHESTNUT-LIBERTY STREET AREA AS LOCAL HISTORIC DISTRICT

4. A public hearing was held relative to consideration of an ordinance amending Chapter 30 of the Code of Ordinances of the City of Asheville to create The Chestnut-Liberty Street Area as a local historic district.

Mayor Bissette opened the public hearing at 4:16 p.m.

Mayor Bissette said this ordinance would designate the Chestnut-Liberty Street neighborhood as a local historic district. Certificates of Appropriateness would be required by a property owner before any exterior rehabilitation or new construction can take place. At the June 11, 1986 Planning and Zoning meeting, the Commission did not take action on this designation; therefore, the public hearing will be opened and will be continued until July 15, 1986. At the July 15, 1986 meeting, the public hearing was continued until August 12, 1986.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said the Historic Resources Commission submitted a recommendation to the Planning and Zoning Commission relative to the creation of The Chestnut-Liberty Street Area as a local historic district. He said several work sessions were held and neighborhood residents made various suggestions relative to the creation of the historic district. He said several formal letters had been received requesting that their property be deleted from the proposed local historic district. He said the Planning and Zoning Commission recommended that the boundaries designated by the Historic Resources Commission not be established as a local historic district.

Tom Steitler, Chairman of the Historic Resources Commission, said the Commission started taking action on this district in February of 1985, designating the boundaries from a historic and architectural standpoint. He spoke in favor of the designation of the area as a local historic district.

Sybil Bowers, Executive Director of the Historic Resources Commission, showed members of Council a slide show on the boundaries of the proposed district and the type of activities that could happen in a historic district. She outlined particular properties in the Chestnut-Liberty Street area that are historic in nature. She said the Chestnut-Liberty Street area is a compact historic district with historic houses, pavement patterns, and tree lined streets. She said a local historic designation is a legal mechanism to control an area in order to preserve its historic and architectural status. She said if the area is not designated, then significant historic properties would not be preserved.

The following individuals made comments for and against the proposal by the Historic Resources Commission to designate the Chestnut-Liberty area as a local historic district:

Tuesday - August 12, 1986 - 4:00 p.m.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Mary Lloyd Frank; Councilmen Wilhelmina Bratton, Walter R. Boland; Kenneth M. Michalove, Norma T. Price, and George M. Tisdale; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: None

INVOCATION

The invocation was given by Councilman Walter Boland.

APPROVAL OF THE MINUTES - AUGUST 5, 1986 MEETING

1. Consideration was given to the approval of the minutes of the August 5, 1986 meeting.

Mayor Bissette announced the approval of the minutes as submitted.

RECOGNITION OF LARRY FISHER, DIRECTOR OF FINANCE AND FINANCE DEPARTMENT STAFF - "CERTIFICATE OF ACHIEVEMENT FOR EXCELLENCE IN FINANCIAL REPORTING"

2. Mayor Bissette recognized Larry Fisher, Director of Finance; Charlotte Tell, City Accountant; and Ken Turbyfill from the Finance Department, for their efforts in the City of Asheville, for the seventh consecutive year, qualifying for a "Certificate of Achievement for Excellence in Financial Reporting" for the fiscal year ending June 30, 1985. He said this award is from the Government Finance Officers Association. He said the Certificate of Achievement is the highest form of recognition in governmental accounting and financial reporting, and its attainment represents a significant accomplishment by government and its management. He presented Larry Fisher, Finance Director, with an "Award of Financial Reporting Achievement".

REPORT RELATIVE TO SIGNS - AUGUST 19, 1986

2a. Mayor Bissette said the Asheville Planning and Zoning Commission at its August 6, 1986 meeting took action relative to signs on limited access highways. He said the City Council members have not received the report from Planning and Zoning Commission and expects the report to be given at next week's meeting, at which time the Council will make a decision relative to Planning and Zoning's recommendation.

PUBLIC HEARING - SITE PLAN OF PROPOSED PUBLIC STORAGE FACILITY - LEICESTER HIGHWAY

3. Mayor Bissette noted that the public hearing relative to the site plan of the proposed public storage facility to be located on Leicester Highway would not be held at the request of the developer.

Tony Clarke-Sayer spoke in support of the designation by the Historic Resources Commission of the Chestnut-Liberty Street area as a local historic district as well as other areas of the City.

Allen White of 167 Chestnut Street spoke in opposition to the designation.

Doug Swaim, of the Montford Area, spoke in support of designating areas as local historic districts.

Ned Guttman of 58 Beechwood Road also spoke in support of designating areas as local historic districts.

Margaret Bridgett of 173 E. Chestnut Street spoke in favor of the designation.

Marjanovic Zzyuko of 90 N. Liberty Street spoke in opposition of the designation.

Robert Bunn of Claxton Street spoke in opposition to the designation.

Bill Duckworth, Realtor, spoke in opposition to the designation.

Mike Summey, an investor, spoke in opposition to the designation.

Judge Frank Parker of 79 S. Liberty Street spoke in opposition to the designation.

Sarah Upchurch of 78 Rosewood Avenue spoke in support of the designation of local historic districts.

Dorothy Arrowood, owner of property at 104 Central Avenue, spoke in opposition to the designation.

Jack Ingle of 104½ Central Avenue spoke in opposition to the designation.

Mary Jane Hooper of 102 Shady Oak Drive spoke in opposition to the designation.

Mike Coxe of 189 Town Mountain Road speaking as a member of the Historic Resources Commission, spoke in favor of the local historic district.

Allen Roberts of 265 Pearson Drive spoke in favor of local historic districts.

Carolyn Humphries, Interim Executive Director of the Historic Resources Commission commented relative to the creation of the Chestnut-Liberty Street area as a local historic district.

Mrs. James McCarthy, speaking for her sister who lives at the corner of Liberty and Orange Street, spoke in favor of the designation.

Tim Warner, 87 N. Liberty Street, spoke in favor of the designation of the Chestnut-Liberty Street area as a local historic district. He presented a map showing the property owners for the designation and those that made no comment. He noted that the Chestnut-Liberty Street is presently on the National Historic Register.

Jean Warner of 87 N. Liberty Street spoke in favor of the designation.

Marion Gebhardt of 81 N. Liberty Street spoke in favor of the designation.

John Hayes of 70 N. Liberty Street spoke in favor of the designation.

Ralph Adams of 75 Madison Avenue spoke in favor of the designation.

Ann Cross of 18 Orange Street spoke in opposition to the designation of the Chestnut-Liberty Street area as a local historic district. She said she was opposed to government control of private property.

Paul Michalove of 147 Chestnut Street spoke in opposition to the designation stating that, economically, the area will suffer if designated as a local historic district.

Evelyn Wyatt of Pearson Drive spoke in favor of designating the area as a local historic district. She said the Montford area has improved since its designation as a local historic district.

Mildred Williams of 60 N. Liberty Street spoke in opposition to the designation stating that she did not feel the government should control private property.

Betty Lawrence spoke in favor of the designation of the Chestnut-Liberty Street area as a local historic district.

John Sorrells of 201 E. Chestnut Street spoke in opposition to the designation.

Upon inquiry of Mr. Sorrells, it was noted that investment tax credits are available for rental and commercial property owners in an area that is designated by the National Historic Register.

Walter Batts of 104 N. Liberty Street spoke in opposition to the designation.

Rev. Allen Bragwell, Pastor of Christ Fellowship Church of 163 Chestnut Street spoke in opposition to the designation.

Margaret Burgin of 143 Merrimon Avenue spoke in opposition to the designation.

RESOLUTION NO. 86-150 - RESOLUTION RECOGNIZING FRIENDSHIP FORCE OF WESTERN NORTH CAROLINA AND VISITORS FROM SHIZUOKA, JAPAN

5. Consideration was given to a resolution recognizing Friendship Force of Western North Carolina and visitors from Shizuoka, Japan.

Mayor Bissette read the resolution recognizing Friendship Force of Western North Carolina for hosting ambassadors from Shizuoka, Japan from August 9-21, 1986 and extending to the visitors all best wishes for an enriching and successful visit.

Mayor Bissette presented the resolution to Mrs. Chihoko Maeda, Exchange Director, and Doug Micheals with Friendship Force of Western North Carolina.

Upon Motion of Vice-Mayor Frank, seconded by Councilman Price, Resolution No. 86-150 was unanimously adopted.

Complete text of Resolution No. 86-150 will be found in Resolution Book No. 16 at Page 121.

ORDINANCE NO. 1600 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE" - PETITION OF MR. BOBBY BARBOUR - 1616 PATTON AVENUE

6. Consideration was given to an ordinance relative to a request to rezone property located at 1616 Patton Avenue from R-2 Residential District to CH Commercial Highway District.

Mayor Bissette said the Asheville Planning and Zoning Commission at a meeting held June 11, 1986, considered the petition of Mr. Bobby Barbour that a portion of Lot 1, Sheet 24, Ward 5, be rezoned from R-2 Residential District to CH Commercial Highway District. The property is located at 1616 Patton Avenue. After review and discussion, the Commission voted to recommend that the petition be denied and that a portion of Lot 1, Sheet 24, Ward 5, be rezoned from CH to R-2 Residential District to provide a buffer on the eastern property line of Lot 1. However, the petitioner has appealed Planning & Zoning Commission's decision and has asked that a public hearing be scheduled so the rezoning matter can be heard before Council. This public hearing was scheduled at the July 15, 1986 Council Meeting. A public hearing was held August 5, 1986 and the first reading of the ordinance was postponed until August 12, 1986.

Mayor Bissette said the Corporation Counsel has prepared an ordinance with more percise and exact boundaries and a plat showing the rezoning of the properties.

Verl Emrick, Director of Planning, said the protest petition originally filed by the Malvern Hills Homeowners Association does not meet the 20 percent requirement of the Zoning Ordinance and therefore a simple majority vote would be all that would be necessary to pass the amendment.

Councilman Price moved for the adoption of Ordinance 1600 as presented by the Corporation Counsel. This motion was seconded by Councilman Tisdale.

Sybil Bowers, Executive Director of the Historic Resources Commission, said local historic district designations help to keep up property values and does not allow neighbors to infringe on other property owners' rights.

Several letters were presented in support of the designation from Mary Carter, David Brook, Robert Duncan, Louise Bisenger, and Kay Johnson.

Mayor Bissette closed the public hearing at 7:00 p.m.

Mayor Bissette said the ordinance was previously presented to members of Council and it would not be read in its entirety unless there was a specific request to do so.

Councilman Price moved to remand the Chestnut-Liberty Street area local historic district to the Historic Resources Commission to reconsider its proposal and to return with alternate plans that include a smaller area and different boundaries. This motion was seconded by Councilman Boland.

After discussion, Mayor Bissette noted that by taking no action on this particular ordinance, Council would not be passing the ordinance and the Historic Resources Commission would, from an architectural and historic viewpoint, look at all the boundaries and present to members of Council a viable district that meets the guidelines but also is acceptable to the majority of the people. He said prior to a public hearing on a new boundary designation there would be an legal ad notifying the date and time of the hearing.

Councilman Boland suggested that a forum be organized to allow developers, homeowners, preservationist, government officials, and others involved in historic preservation to discuss the whole issue of preservation very seriously. He said other areas of the City, such as Biltmore Village and a large portion of the downtown, are being considered for historic district designation and many of the questions and comments at today's meeting are likely to be heard again with each new hearing on designations. He said he felt a round table discussion could answer a lot of these questions and it could be the beginning of a stratagy plan for historic preservation throughout the City.

Councilman Michalove said he was skeptical of the Council taking any action on the present ordinance and requested that Council not remand the matter to the Historic Resources Commission, but let Council members decide on what it actually desires to do with the property designation within the next week.

Councilman Michalove suggested that the next public hearing relative to the Chestnut-Liberty Street area be held at the Asheville Civic Center.

After discussion, Councilman Price's motion carried unanimously.

Resolution No. 86-151

A. Consideration of a resolution authorizing the City Manager to sign an agreement extending fire protection services to the Veteran's Administration Medical Center at Oteen through September 30, 1987.

HIGHLIGHTS: This resolution will authorize the City Manager to execute an agreement extending fire protection services to the Veteran's Administration Medical Center at Oteen for the period October 1, 1986 through September 30, 1987.

FISCAL IMPACT: Revenue for 1986-1987 will be $174,835.18 which represents an increase of $12,416.09 from the 1985-1986 contract.

Resolution Book No. 16 Page 122

Resolution No. 86-152

B. Consideration of a resolution appointing member to the Tourism Development Authority.

HIGHLIGHTS: This resolution will appoint Mrs. Barbara McEwan, as a member of the Tourism Development Authority for a term of three years, term expiring August 30, 1989 or until her successor has been duly appointed and qualified.

FISCAL IMPACT: None

Resolution Book No. 16 Page 123

Resolution No. 86-153

C. Consideration of a resolution appointing members to the Asheville-Buncombe Historic Resources Commission.

HIGHLIGHTS: This resolution will reappoint Carroll Hughes and Johnny Baxter to the Asheville-Buncombe Historic Resources Commission for a three year term, term expiring July 1, 1989 or until their successor has been duly appointed and qualified.

FISCAL IMPACT: None

Resolution Book No. 16 Page 124

Resolution No. 86-154

D. Consideration of a resolution appointing members to the Asheville Tree Commission.

On a roll call vote of 7-0, Ordinance No. 1600 passed on first reading.

ORDINANCE NO. 1596 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED AND REPEAL OF SECTIONS OF ORDINANCE NO. 1046 (PROPERTY LOCATED ON U.S. 70-E ADJACENT TO BELL SCHOOL)

7. Consideration was given to the third reading of Ordinance No. 1596, an ordinance amending Ordinance No. 322, known as "an ordinance providing for the zoning of the City of Asheville," as amended and repeal of sections of Ordinance No. 1046 (Property Located On U.S. 70-E Adjacent to Bell School.)

Mayor Bissette said the Asheville Planning and Zoning Commission at a meeting held June 11, 1986, considered the petition of Attorney Jack Westall for Mr. Frank Kasey that Ward 8, Sheet 31, portion of Lot 201, be rezoned from R-2 Residential District to CH Commercial Highway District. The petition also requested the repeal of Ordinance #1046 requiring a 50' green belt and that the 50' green belt be zoned "R-2". The property is located on U.S. 70-E adjacent to Bell School. After review and discussion, the Commission voted to recommend that the petition be denied. However, the petitioner has appealed Planning and Zoning Commission's decision and has asked that a public hearing be scheduled so the rezoning matter can be heard before Council. This ordinance passed first reading at the July 29, 1986 meeting with an amendment to provide a 15" green belt and that the 15' green belt area remain zoned R-2 Residential District.

Mayor Bissette said this ordinance was previously read on first and second reading and would not be reread in its entirety unless there was a specific request to do so.

Mayor Bissette said he had been notified by the attorney for the Buncombe County Board of Education, Jim Williams, that all agreements had been complied with between the Buncombe County Board of Education and the property owner, Mr. Frank Kasey.

On a roll call vote of 7-0, Ordinance No. 1596 passed on third and final reading.

Complete text of Ordinance No. 1596 will be found in Ordinance Book No. 11 at page 37.

APPROVAL OF THE CONSENT AGENDA

8. Consideration was given to a motion approving the consent agenda.

Mayor Bissette said the following items are of a routine nature and they have been previously reviewed by the members of the City Council. Therefore, by unanimous vote to approve these items, the City Council may, pursuant to the procedures established in Ordinance No. 1008, adopt all of the items with one motion without the full reading and/or separate motion adopting each individual item. Upon the request of a citizen, a member of the City Council, and/or a member of the City staff, any single item scheduled for approval on the consent agenda may be considered separately.

H. **Consideration of a motion to schedule a public hearing relative to an ordinance amending Ordinance No. 322, known as "an ordinance providing for the zoning of the City of Asheville," as amended - property known as The Coachlite Restaurant near intersection of Long Shoals Road and Ledbetter Road for September 9, 1986.**

HIGHLIGHTS: The Asheville Planning and Zoning Commission on July 9, 1986, reviewed and recommended that the Coachlite Restaurant property, which became a part of the City of Asheville in April, 1986, as a non-contiguous, or "satellite" annexation area, be zoned CH Commercial Highway District.

FISCAL IMPACT: None

Upon motion of Vice-Mayor Frank, seconded by Councilman Boland, the Consent Agenda was unanimously adopted.

REPORT RELATIVE TO THE WOODBERRY APARTMENT COMPLEX

9. The City Manager said the contractor and the developer for the Woodberry Apartment Complex have complied with all requirements of the Soil Erosion Control Ordinance.

CLAIMS - WHEELS AND BRAKES (WATER) -KATHY CUNNINGHAM (SEWER)

10. The City Manager presented claims received from Wheels and Brakes and Kathy Cunningham.

Mayor Bissette referred the claims to the Corporation Counsel for investigation and recommendation.

ADJOURNMENT

Upon motion of Councilman Tisdale, seconded by Councilman Boland, the meeting adjourned at 7:50 p.m.

MAYOR

CITY CLERK

HIGHLIGHTS: This resolution will appoint members to fill four (4) vacancies on the Tree Commission. Dr. J. Lowell Orbison and Mr. Claude B. Haynes, Jr. were reappointed to the Asheville Tree Commission for a three year term, term expiring August 1, 1989. Mr. Jerry Snow and Ms. Julia Hall were appointed to the Asheville Tree Commission for a three year term, term expiring August 1, 1989.,

FISCAL IMPACT: None

Resolution Book No. 16 Page 125

E. **Consideration of a motion to schedule a public hearing relative to an ordinance amending Ordinance No. 322, known as "an ordinance providing for the zoning of the City of Asheville," as amended - property known as The Black Forest Restaurant located on U.S. 25 for September 9, 1986.**

HIGHLIGHTS: The Asheville Planning and Zoning Commission on July 9, 1986, reviewed and recommended that the Black Forest Restaurant property, which became a part of the City of Asheville in 1983 as a non-contiguous, or "Satellite" annexation area, be zoned CH Commercial Highway District.

FISCAL IMPACT: None

F. **Consideration of a motion to schedule a public hearing relative to an ordinance amending Ordinance No. 322, known as "an ordinance providing for the zoning of the City of Asheville," as amended - property known as The Poseidon Restaurant located on Tunnel Road for September 9, 1986.**

HIGHLIGHTS: The Asheville Planning and Zoning Commission on July 9, 1986, reviewed and recommended that the Poseidon Restaurant property, which became a part of the City of Asheville in 1983 as a non-contiguous, or "satellite" annexation area, be zoned CH Commercial Highway District.

FISCAL IMPACT: None

G. **Consideration of a motion to schedule a public hearing relative to an ordinance amending Ordinance No. 322, known as "an ordinance providing for the zoning of the City of Asheville," as amended - property known as The Ramada Inn-West located on U.S. 19-23 for September 9, 1986.**

HIGHLIGHTS: The Asheville Planning and Zoning Commission on July 9, 1986, reviewed and recommended that the Ramada Inn - West property, which became a part of the City of Asheville in 1984 as a non-contiguous, or "satellite" annexation area, be zoned CH Commercial Highway District.

FISCAL IMPACT: None

Patsy Brison, Acting Corporation Counsel, explained the amendments to the present ordinance.

Mayor Bissette closed the public hearing at 4:18 p.m.

Mayor Bissette said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety unless there was a specific request to do so.

Councilman Tisdale moved for the adoption of Ordinance No. 1601. This motion was seconded by Councilman Price.

On a roll call vote of 6-0, Ordinance No. 1601 passed on first reading.

Councilman Michalove moved to suspend the rules and proceed with the second reading of Ordinance No. 1601. This motion was seconded by Councilman Boland and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1601 passed on second reading.

Councilman Michalove moved to suspend the rules and proceed with the third and final reading of Ordinance No. 1601. This motion was seconded by Councilman Boland and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1601 passed on third and final reading.

Complete text of Ordinance No. 1601 will be found in Ordinance Book No. 11 at page 42-53.

PUBLIC HEARING - REZONING PROPERTY LOCATED ON CAMPGROUND ROAD AND U.S.70-E - PETITION OF MR. R. S. CRAIG

5. A public hearing was held relative to the adoption of an ordinance amending Ordinance No. 322, known as "an ordinance providing for the zoning of the City of Asheville," as amended - petition of Mr. R. S. Craig - rezoning property located on Campground Road and U.S. 70-E.

Mayor Bissette said the Asheville Planning and Zoning Commission at a meeting held April 9, 1986, considered the petition of Mr. R. S. Craig by Mr. Lee Towery, Realtor, that Ward 8, Sheet 31, Lot 16, be rezoned from R-1 Residential District to CS Commercial Service District. The property is located on Campground Road and U. S. 70-E. After review and discussion, the Commission voted to recommend that the petition be denied and the property remain as it is now zoned. However, the petitioner requested an extension of time to appeal Planning and Zoning Commission's decision, since they were out of the country and unable to return in time to appeal within the time frame allowed. Council granted this request and scheduled the public hearing at their August 5th meeting.

Tuesday - August 19, 1986 - 4:00 p.m.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Councilmen Wilhelmina Bratton, Walter R. Boland; Kenneth M. Michalove, Norma T. Price, and George M. Tisdale; Acting Corporation Counsel Patsy Brison; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Vice-Mayor Mary Lloyd Frank and Corporation Counsel William F. Slawter.

INVOCATION

1. The invocation was given by Councilman George Tisdale.

APPROVAL OF THE MINUTES - August 12, 1986 MEETING

2. Consideration was given to the approval of the minutes of the August 12, 1986 meeting.

Mayor Bissette announced the approval of the minutes of the August 12, 1986 meeting as submitted.

PROCLAMATION - MONTH OF SEPTEMBER, 1986 AS "PLUS" - PROJECT LITERACY U.S.

3. Mayor Bissette read a proclamation proclaiming the month of September, 1986 as "PLUS" - Project Literacy U.S.

Mayor Bissette presented the proclamation to Sherrill Barber of WLOS and Charles Erwin with the Employment Security Commission.

PUBLIC HEARING - AMENDING ORDINANCE NO. 1487 - SOIL EROSION AND SEDIMENTATION ORDINANCE NO. 1601 - ORDINANCE AMENDING ORDINANCE NO. 1487, COTIFIED AS ARTICAL V OF CHAPTER 8 OR THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE

4. A public hearing was held relative to an ordinance amending Ordinance #1487, an ordinance to provide for the control of soil erosion and sedimentation.

Mayor Bissette said cities and counties having "Soil Erosion and Sedimentation Ordinances are required to have ordinances that comply with the "State Model Ordinance". Last year the State adopted a new model ordinance that requires all cities and counties amend their current ordinances.

Mayor Bissette opened the public hearing at 4:16 p.m.

The City Clerk presented the notice to the public setting a time and date for the public hearing and the affidavit of publication.

Tom Tarrant, City Engineer, said this ordinance would amend our current Soil Erosion and Sedimentation Ordinance to comply with the State Ordinance. He said there are only minor changes, particularily in notifications relative to violations.

Mayor Bissette said this action would authorize the City Manager to issue a Certificate of Public Convenience and Necessity to Beaver Lake Cab Company pursuant to Section 27.34 of the Code of Ordinances of the City of Asheville upon proof of financial responsibility in accordance with North Carolina General Statutes Section 20-280.

The City Manager said he had received a request from Paul Davis, Beaver Lake Cab Company, requesting the issuance of a Certificate of Public Convenience and Necessities to Beaver Lake Cab Company for the operation of twelve taxi cabs.

Reynald Williams, Attorney representing 3 of the 4 taxicab companies in the City of Asheville said his clients, Bruce Ramsey of the Yellow Cab Company, Amos Miller of the Miller Cab Company, and Mr. Jones of the Jolly Cab Company, strongly believe that the Council should not issue any more Certificates of Public Convenience and Necessity for taxicabs. He said they believe that the market is already saturated and there is no need for additional taxicabs in the City of Asheville. He requested that this matter be tabled for two weeks, giving his clients an opportunity to collect data to present to members of Council as to why another taxicab is not needed in the City of Asheville. He said these companies presently have Certificates authorizing taxicabs that are not being used.

Joe Penland, with Blue Bird and American Cab Company, referring to Chapter 27 of the Code of Ordinances stated that the Taxicab Ordinance is out of date. He said in March, 1984, he was appointed to an Urban Transit Committee and they had made recommendations to amend the Charter, which recommendations never reached members of Council. He said the Committee had also researched the need for taxicabs in the City of Asheville and had recommended one unit per 1000 population. He said there are presently 75 licensed units in the City of Asheville and some companies are holding license that are not being used. He said there are presently more units than are needed in the City of Asheville.

Mr. Penland suggested that Council form a study committee to look at amendments to Chapter 27 of the Code of Ordinances. He also recommended that this matter be tabled until a committee could revise the present regulations and provisions.

After discussion, Councilman Boland moved to continue the public hearing relative to the issuance of a Certificate of Public Convenience and Necessity to Beaver Lake Cab Company until September 2, 1986. This motion was seconded by Councilman Tisdale, with a provision that all cab companies be notified of this public hearing, including the petitioner, Mr. Paul Davis. The motion carried unanimously.

ORDINANCE NO. 1600 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE" - PETITION OF MR. BOBBY BARBOUR OF 1616 PATTON AVENUE

7. Consideration was given to the second reading of Ordinance No. 1600, an ordinance amending Ordinance No. 322, known as "an ordinance providing for the zoning of the City of Asheville", as amended - petition of Mr. Bobby Barbour of 1616 Patton Avenue.

Mayor Bissette opened the public hearing at 4:24 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said the Planning and Zoning Commission considered this rezoning request on April 9, 1986, and recommended denial of the rezoning from R-2 Residential District to CS Commercial Service. He said the Commission felt the rezoning would introduce an additional commercial zone in an area which could possibly constitute spot zoning. He said many of the uses allowed in the CS Commercial Service District were inappropriate for this particular area.

At the request of Council members, Mr. Emrick defined spot zoning.

Mr. R. S. Craig, petitioner for the rezoning, spoke to members of Council requesting that the property be rezoned. He said the property is presently a deep gulley and could lend itself to commercial use which would bring more taxes to the City of Asheville. He said drainage problems with the property could be corrected.

Mr. Lee Towery, Realtor, speaking on behalf of Mr. Craig, said he felt there was a misunderstanding relative to the rezoning requested, and that the petitioner would accept a Commercial Highway District rezoning because he is only looking for a retail location.

Upon inquiry of members of Council, Mr. Emrick said several citizens from an adjoining church had attended the Planning and Zoning Commission meeting and had inquired as to the proposed use of the land. He said he did not feel the adjoining property owners would object to a retail business in the area.

At the request of Dick Daves, of Edwin Place, Mr. Emrick reviewed the location of the property by the use of a map.

Mayor Bissette closed the public hearing at 4:52 p.m.

After discussion, Councilman Boland moved to remand the rezoning request to the Planning and Zoning Commission for their consideration of a Commercial Highway zone in this area. This motion was seconded by Councilman Bratton and carried unanimously.

PUBLIC HEARING - AUTHORIZING ISSUANCE OF A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO BEAVER LAKE CAB COMPANY

6. A public hearing was held relative to authorizing the issuance of a certificate of public convenience and necessity to Beaver Lake Cab Company.

Mayor Bissette opened the public hearing at 4:56 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Councilman Bratton suggested that a committee be established to review a new comprehensive sign ordinance prior to the revised ordinance being presented to members of Council.

Jane Bingham of Biltmore Forest said she had also attended the meeting ten years ago when the present Sign Ordinance was adopted. She said she felt the present Sign Ordinance was a compromise and was not what the people wanted. She said she was not happy with the present Sign Ordinance and visual pollution of signs has continued. She said she felt it was time for members of Council to rewrite the Sign Ordinance.

Ralph Bishop told members of Council he felt signs are not offensive but informative. He said the felt tourists need signs to see what is available in the City of Asheville. He requested that Council not put restrictions on signs.

APPROVAL OF THE CONSENT AGENDA

9. Consideration was given to a motion approving the consent agenda.

Mayor Bissette said the following items are of a routine nature and they have been previously reviewed by the members of the City Council. Therefore, by unanimous vote to approve these items, the City Council may, pursuant to the procedures established in Ordinance No. 1008, adopt all of the items with one motion without the full reading and/or separate motion adopting each individual item. Upon the request of a citizen, a member of the City Council, and/or a member of the City staff, any single item scheduled for approval on the consent agenda may be considered separately.

Resolution No. 86-155

A. **Consideration of a resolution authorizing the Mayor to execute on behalf of the City of Asheville Amendment No. 1 to Federal Aviation Grant Agreement, Project No. 3-37-005-03.**

HIGHLIGHTS: This resolution will authorize the Mayor to execute Amendment No. 1 to Federal Aviation Grant Agreement, Project No. 3-37-0005-03 to cover cost overruns.

FISCAL IMPACT: Total cost $5,274.00

Resolution Book No. 16 - Page 126

Resolution No. 86-156

B. **Consideration of a resolution appointing member to the Board of Adjustment.**

HIGHLIGHTS: This resolution will appoint T. Randy O'Donnell, as a member of the Board of Adjustment for a term of three (3) years, term expiring January 21, 1989, or until his successor is duly appointed and qualified.

Resolution Book No. 16 - Page 127

Mayor Bissette said the Asheville Planning and Zoning Commission at a meeting held June 11, 1986, considered the petition of Mr. Bobby Barbour that a portion of Lot 1, Sheet 24, Ward 5, be rezoned from R-2 Residential District to CH Commercial Highway District. The property is located at 1616 Patton Avenue. After review and discussion, the Commission voted to recommend that the petition be denied and that a portion of Lot 1, Sheet 24, Ward 5, be rezoned from CH to R-2 Residential District to provide a buffer on the eastern property line of Lot 1. However, the petitioner has appealed Planning and Zoning Commission's decision and has asked that a public hearing be scheduled so the rezoning matter can be heard before Council. This public hearing was scheduled at the July 15, 1986 Council Meeting. A public hearing was held August 5, 1986 and the first reading of the ordinance was postponed until August 12, 1986. This ordinance passed on first reading at the August 12, 1986 meeting.

Mayor Bissette said this ordinance was previously read on first reading and would not be reread in its entirety unless there was a specific request to do so.

On a roll call vote of 6-0, Ordinance No. 1600 passed on second reading.

REPORT FROM PLANNING DIRECTOR ON SIGN REGULATIONS

8. Mayor Bissette said on June 3, 1986, City Council requested that the Asheville Planning and Zoning Commission review alternatives on how to deal with "Off Premises Signs". The Commission discussed the recommendations of staff, which included background information and statutory authority to implement such regulations at its meeting on June 11, 1986, and received both staff reports and comments from interested parties. After hearing those comments, the Commission scheduled a work session on July 21, 1986, to investigate the questions raised by the Commission and the public. Following that work session, the Commission reconsidered the issue at their August 6, 1986 meeting and recommended that Council impose a moratorium on all off-premise advertising signs within 660 feet of limited access highways within the jurisdiction of the ordinance until a comprehensive plan is developed and considered by Council.

Verl Emrick, Planning Director, said at the Planning and Zoning Commission meeting on June 3, 1986, the Commission has recommended that Council propose a moratorium on all off-premises advertising signs within 660 feet of limited access highways within the jurisdiction of the Sign Ordinance until a comprehensive plan is developed and considered by Council. The Commission felt that it would be immaterial to look at one facet of the Sign Ordinance when they are proposing to draft a comprehensive revision to the present Sign Ordinance in October.

Mike Summey, with Summey Sign Company, asked members of Council why this matter is being studied. He said the present Sign Ordinance was adopted ten years ago after a very lengthy discussion. He said he felt the quality of signs in the City of Asheville have improved and there are fewer signs in the City now than there were ten years ago. He ask members of Council what the outdoor advertising sign companies were doing wrong and also what was wrong with the present Sign Ordinance.

Councilman Boland said he felt there is a visual block of signs in the City of Asheville that could damage the tourist.

FISCAL IMPACT: This action will require a budget amendment to appropriate $24,000 from the General Fund Contingency prior to completion of the agreement.

Resolution Book No. 16, Page 128

Resolution No. 86-158

F. **Consideration of a resolution authorizing the City Manager to execute an amended agreement by and among the Town of Biltmore Forest, the City of Asheville, the County of Buncombe, Biltmore Forest Company, and Oxford Development Enterprises, Inc. for the four-mile creek sewer line project.**

HIGHLIGHTS: The Town of Biltmore Forest, the City of Asheville, the County of Buncombe, Biltmore Forest Company, and Oxford Development Enterprises, Inc. entered into an agreement dated October 21, 1985, for the funding of the four-mile creek sewer line project. Cost overruns now require the expenditure of additional funds for the completion of said project. The parties have agreed to fund said additional costs as set forth in the attached agreement. This resolution will authorize the City Manager to execute an amended agreement by and among the Town of Biltmore Forest, the City of Asheville, the County of Buncombe, Biltmore Forest Company, and Oxford Development Enterprises, Inc. establishing responsibility for cost overruns in connection with the four-mile creek sewer line project.

FISCAL IMPACT: Adequate funding is available in the Sewer Capital Funds - Annexation to cover the additional cost to be incurred.

Resolution Book No. 16, Page 129

Upon motion of Councilman Michalove, seconded by Councilman Price, the consent agenda was unanimously approved.

MAYOR BISSETTE'S REPORT RELATIVE TO US 19-23/I-40 INTERCHANGE

10. Mayor Bissette said he had received a number of calls relative to US 19-23/I-40 Interchange. He said even though this area is outside the City limits, he had requested that the City Manager inquire of NCDOT as to their proposed revisions at this interchange.

He said the interchange revisions as proposed by NCDOT include the following:

1. Relocation of I-40 east bound exit ramp to align with eastbound onramp. This intersection will be signalized.

2. Relocation and widening of I-40 westbound exit ramp, to provide additional vehicle storage on the ramp. This intersection will also have new signalization.

C. **Consideration of a motion relative to the assignment of lease for space at the Reid Memorial Recreation Center.**

HIGHLIGHTS: This motion will authorize the City Manager to execute an Assignment of Lease consenting to an assignment by the Opportunity Corporation of Madison and Buncombe County Headstart Program to the Buncombe County Child Development for space in the Reid Memorial Recreation Center.

D. **Consideration of a motion approving bid for one (1) refuse collection vehicle.**

HIGHLIGHTS: On May 23, 1986, sealed bids were received for one (1) refuse collection vehicle and eight (8) bids were received. These bids were reviewed by T. Clark Brown, Director of Public Works, Alfred Hagan, Superintendent of Sanitation, and David Pruett, Superintendent of Motor Transport for technical compliance to specifications. Mr. Brown recommends rejecting the low bid from Quality Equipment and Supply Company, Charlotte, N. C., on the basis that the equipment proposed does not meet all of the specifications. These are major problems with the Loadmaster packer body meeting the specifications required by the City. This motion awards the bid to Western North Carolina Truck Center, Inc., Asheville, N.C., as the lowest, responsible bidder, in the amount of $80,359.61 for a 1987 White Xpeditor Model WX64 cab and chassis with a Heil Formula 5000 packer body and a Barker dumping unit. This award takes into consideration the quality, performance and the time specified in the proposals for the performance of the contract.

FISCAL IMPACT: No effect upon revenues. Reduction of operating expenditures due to reduced maintenance. Adequate funding is available in the Public Works Department's Capital Budget.

Resolution No. 86-157

E. **Consideration of a resolution authorizing the City Manager to execute release and agreement with the Asheville Y.M.C.A.**

HIGHLIGHTS: The Asheville Y.M.C.A. was built in 1969 in an Urban Redevelopment area within the City of Asheville. There exists at the time of said construction a storm sewer across the Y.M.C.A. property. There exists a controversy between the City of Asheville and the Y.M.C.A. regarding the validity of the easement across the Y.M.C.A. property and the responsibility of the City for relocating said storm sewer line. This resolution will authorize the City Manager to execute release and agreement with the Asheville Y.M.C.A. to resolve said matters of dispute.

Tuesday - August 26, 1986 - 4:00 p.m.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Mary Lloyd Frank; Councilmen Wilhelmina Bratton, Walter R. Boland; Kenneth M. Michalove, Norma T. Price, and George M. Tisdale; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: None

INVOCATION

The invocation was given by Councilman Norma Price.

APPROVAL OF THE MINUTES - AUGUST 19, 1986 MEETING

1. Consideration was given to the approval of the minutes of the August 19, 1986, meeting.

Mayor Bissette announced the approval of the minutes as submitted with several typographical errors.

PROCLAMATION - SEPTEMBER, 1986 - "SYMPHONY MONTH"

2. Mayor Bissette read a proclamation proclaiming the month of September, 1986, as "Symphony Month."

Mayor Bissette presented the proclamation to Robert Baker, Conductor and Music Director; George Saenger, President of Symphony Society Board; Marcia O'Nieal, General Manager of the Symphony; and Marilyn Miller, President of the Symphony Guild.

RESOLUTION NO. 86-159 - RESOLUTION ENDORSING THE 1986 UNITED WAY CAMPAIGN

3. Consideration was given to a resolution endorsing the 1986 United Way Campaign.

Mayor Bissette said the United Way of Asheville and Buncombe County has a 34-year history of providing quality service to the citizens of Asheville and Buncombe County. The United Way supports 46 agencies that serve residents of the City of Asheville and also maintains a 24-hour-a-day information and referral service. By adoption of this resolution, the City Council will endorse the United Way's 1986 Campaign.

Upon motion of Councilman Michalove, seconded by Councilman Boland, Resolution No. 86-159 was unanimously adopted.

Complete text of Resolution No. 86-159 will be found in Resolution Book No. 16 at page 130.

Mayor Bissette presented the resolution to Jay Banks.

3. Concrete median will be installed on centerline of US 19-23, at Acton Circle, to eliminate crossing movement to I-40 and dangerous left turn onto US 19-23. He said it is his understanding that the contract for this project is to be let in November, 1986. He said also, NCDOT plans to implement a speed limit reduction in this area very soon. He said information and a concurring ordinance on the speed limit should be received within the next few days.

Mayor Bissette requested that members of Council pass a motion requesting that the North Carolina Department of Transportation expedite these actions as soon as possible.

Upon motion of Councilman Tisdale, seconded by Councilman Bratton, this motion was unanimously adopted.

MAYOR BISSETTE'S REPORT RELATIVE TO PACK PLAZA PROJECT

11. Mayor Bissette noted that a commitment letter has been duly executed by the Schneider Group and the Banking Syndicate and construction could begin on this project in the very near future.

CLAIMS - MARY BURRELL (WATER) - ROGER SHOOK (STREETS)

12. The City Manager presented claims received from Mary Burrell and Roger Shook.

Mayor Bissette referred the claims to the Corporation Counsel for investigation and recommendation.

RALPH BISHOP - OBTAINING CITY RECORDS AND LOTTERY SALES IN THE CITY OF ASHEVILLE

13. Ralph Bishop spoke to members of Council relative to the Police Pension Board holding an illegal executive session relative to James A. Mould's pension. He spoke to members of Council relative to the lottery sales in the City of Asheville.

ADJOURNMENT

Upon motion of Councilman Tisdale, seconded by Council Boland, the meeting adjourned at 5:50 p.m.

MAYOR

CITY CLERK

Mayor Bissette said this ordinance was previously read on first and second reading and would not be reread in its entirety unless there was a specific request to do so.

On a roll call vote of 7-0, Ordinance No. 1600 passed on third and final reading.

Complete text of Ordinance No. 1600 will be found in Ordinance Book No. 11 at page 41.

RESOLUTION NO. 86-160 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE, ON BEHALF OF THE CITY, AN AGREEMENT BY AND BETWEEN THE CITY OF ASHEVILLE AND WOOD AND CORT, P.A., TO DEVELOP SPECIFICATIONS FOR THE INSTALLATION OF BOILER FOR THE CITY HALL BUILDING AND THE MUNICIPAL BUILDING

6. Consideration was given to a resolution authorizing the City Manager to execute, on behalf of the City, an agreement by and between the City of Asheville and Wood and Cort, P.A., to develop specifications for the installation of boiler for the City Hall Building and the Municipal Building.

Mayor Bissette said the present heating systems for the City Hall Building and the Municipal Building are not adequate to heat these buildings. This resolution will authorize the City Manager to execute an agreement with Wood and Cort, P.A., for developing the specifications for the purchase of boilers for the City Hall Building and the Municipal Building. Total cost of the project is $168,200. Money is budgeted into the City's capital budget to cover these expenses.

Upon motion of Councilman Price, seconded by Councilman Tisdale, Resolution No. 86-160 was unanimously adopted.

Complete text of Resolution No. 86-160 will be found in Resolution Book No. 16 at page 131.

RESOLUTION NO. 86-161 - RESOLUTION HONORING S. LEIGH WILSON, EXECUTIVE DIRECTOR OF THE NORTH CAROLINA LEAGUE OF MUNICIPALITIES

7. Consideration was given to a resolution honor S. Leigh Wilson, Executive Director of the North Carolina League of Municipalities.

Mayor Bissette read the resolution stating that S. Leigh Wilson began work at the North Carolina League of Municipalities on April 1, 1947, as a Field Consultant and was named Executive Director on November 1, 1969. He said under Mr. Wilson's leadership, the North Carolina League of Municipalities became one of the top municipal leagues in the nation, and Leigh Wilson became one of the most respected league directors. He said Leigh Wilson is retiring at the end of this year from the North Carolina League of Municipalities, and this resolution expresses Council's deep personal affection and sincere gratitude his years of service to the North Carolina League of Municipalities and to the cities of this state.

Upon motion of Vice-Mayor Frank, seconded by Councilman Price, Resolution No. 86-161 was unanimously adopted.

Complete text of Resolution No. 86-161 will be found in Resolution Book No. 16 at page 132.

PUBLIC HEARING - FINAL PLAT OF THE SCHWAB CONSTRUCTION COMPANY SUBDIVISION - LAKESHORE DRIVE

4. A public hearing was held relative to the final plat of the Schwab Construction Company subdivision to be located off Lakeshore Drive.

Mayor Bissette said the Asheville Planning and Zoning Commission, at a meeting held June 11, 1986, approved a 16' wide paved drive to all four parcels and recommending that City Council consider placing a caution signal light and signage on each side of the entrance road. The final plat of the Schwab Construction Company Subdivision is to be located off Lakeshore Drive. This plat was prepared by Webb Morgan, R.L.S., for Schwab Construction Company, Developer, and submitted in accordance with Ordinance #424, as amended.

Mayor Bissette opened the public hearing at 4:24 p.m.

The City Clerk presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said the developer has requested that the public hearing be continued for one week due to technical problems with the roads.

Councilman Tisdale requested that information be furnished to members of Council, at the public hearing, relative to the water supply for this development.

Councilman Tisdale moved to continue the public hearing relative to the final plat of the Schwab Construction Company Subdivision until September 2, 1986, without further advertisement. This motion was seconded by Councilman Price and carried unanimously.

ORDINANCE NO. 1600 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," - PETITION OF MR. BOBBY BARBOUR - 1616 PATTON AVENUE

5. Consideration was given to the third reading of Ordinance No. 1600, an ordinance amending Ordinance No. 322, known as "An ordinance providing for the zoning of the City of Asheville," as amended, to rezone property located at 1616 Patton Avenue from R-2 Residential District to CH Commercial Highway District.

Mayor Bissette said the Asheville Planning and Zoning Commission at a meeting held June 11, 1986, considered the petition of Mr. Bobby Barbour that a portion of Lot 1, Sheet 24, Ward 5, be rezoned from R-2 Residential District to CH Commercial Highway District. The property is located at 1616 Patton Avenue. After review and discussion, the Commission voted to recommend that the petition be denied and that a portion of Lot 1, Sheet 24, Ward 5, be rezoned from CH to R-2 Residential District to provide a buffer on the eastern property line of Lot 1. However, the petitioner has asked that a public hearing be scheduled so the rezoning matter can be heard before Council. This public hearing was scheduled at the July 15, 1986, Council Meeting. A public hearing was held August 5, 1986, and the first reading of the ordinance was postponed until August 12, 1986. This ordinance passed on first reading at the August 12, 1986, meeting and on second reading on August 19, 1986.

Tuesday - September 2, 1986 - 4:00 p.m.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Mary Lloyd Frank; Councilmen Wilhelmina Bratton, Walter R. Boland; Kenneth M. Michalove, Norma T. Price, and George M. Tisdale; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Deputy City Clerk Carol Hensley.

Absent: Associate City Manager/City Clerk William F. Wolcott, Jr.

INVOCATION

The invocation was given by Vice-Mayor Mary Lloyd Frank.

APPROVAL OF THE MINUTES - AUGUST 26, 1986 MEETING

1. Consideration was given to the approval of the minutes of the August 26, 1986, meeting.

Mayor Bissette announced the approval of the minutes as submitted.

PROCLAMATION - SEPTEMBER 6-14, 1986 - "FRENCH BROAD RIVER WEEK"

2. Mayor Bissette read a proclamation proclaiming the week of September 6-14, 1986, as "French Broad River Week".

Mayor Bissette presented the proclamation to Councilman Norma Price on behalf of the French Broad River Week Committee.

Councilman Price outlined the activities that would be taking place during the French Broad River Week.

RESOLUTION - 86-162 - RESOLUTION OF APPRECIATION TO FIRE CHIEF POWELL N. BALL

3. Consideration was given to a Resolution of Appreciation to Fire Chief Powell N. Ball.

Mayor Bissette said Powell N. Ball has faithfully served the City of Asheville since 1950, being promoted to Chief in 1970. Powell N. Ball's retirement becomes effective July 1, 1986, and the City Council expresses its appreciation for his loyalty and dedication to the citizens of the City of Asheville.

Upon motion of Councilman Tisdale, seconded by Councilman Michalove, Resolution No. 86-162 was unanimously adopted.

Complete text of Resolution No. 86-162 will be found in Resolution Book No. 16 at page 134.

Mayor Bissette presented the Resolution to Chief Ball.

AUTHORIZING THE CITY MANAGER TO PURCHASE TWO BOILERS AND RELATED EQUIPMENT FOR THE CITY HALL BUILDING AND THE MUNICIPAL BUILDING

8. Consideration was given to a motion authorizing the City Manager to purchase boiler replacements for the City Hall Building and the Municipal Building.

The City Manager said there is a need to upgrade the heating system of the City Hall Building and the Municipal Building in accordance with the laws of the State of North Carolina governing the heating of such buildings. He said the replacement boilers for these two buildings can be purchased from R. K. Hunter Company in Greensboro, North Carolina, under an existing North Carolina state contract at a reduced price than from any other source. He said it is imperative to proceed as quickly as possible with the purchase of these two boilers in order that adequate heating can be established for these buildings before December 31, 1986.

Vice-Mayor Frank moved to authorize the City Manager to purchase boiler replacements for the City Hall Building and the Municipal Building at a price not to exceed $15,000 each. This motion was seconded by Councilman Price and carried unanimously.

DOROTHY I. ARROWOOD - REPORT RELATIVE TO PROPOSED CHESTNUT-LIBERTY STREET HISTORIC DISTRICT

9. Dorothy Arrowood of 126 Vance Crescent, and property owner in the Chestnut-Liberty Street area, presented members of Council with a report and comments on the proposed Chestnut-Liberty Street Historic District. She noted from the report that 71% of the properties in the proposed Chestnut-Liberty Street area are non-compatible, non-contributing, conversions, demolitions, intrusions, insensitive, neutral, modern, and fringe or buffer areas. She requested that members of Council review the report prior to the matter coming before Council.

CLAIMS - DAVID GAY (SEWER) - JOYCE CRAWFORD (TRAFFIC ENGINEERING) - GRADY PARHAM (SEWER) - JOSEPH DILLIN (STREETS) - JACKIE GOUGE (SEWER) - PAULINE HARRISON (WATER) - TARA GUILLEBEAUX (WATER) - BETTY PONDER (SEWER)

10. The City Manager presented claims received from David Gay, Joyce Crawford, Grady Parham, Joseph Dillin, Jackie Gouge, Pauline Harrison, Tara Guillebeaux, and Betty Ponder.

Mayor Bissette referred the claims to the Corporation Counsel for investigation and recommendation.

ADJOURNMENT

Upon motion of Councilman Boland, seconded by Councilman Tisdale, the meeting adjourned at 4:50 p.m.

MAYOR

CITY CLERK

is unreliable. He requested that members of Council seriously consider the application of Mr. Davis and approve the Certificate of Public Convenience and Necessity as requested by Mr. Davis.

Reynald Williams, Attorney representing three taxicab companies in the City of Asheville, being the Miller Cab Company, the Yellow Cab Company, and the Jolly Cab Company, presented members of Council with a report which indicated there was currently an adequate supply of taxicabs within the City of Asheville. He said the analysis shows that Asheville has more taxicabs in operation than is needed. He said from the report, it is indicated that one taxicab is needed per 1,000 population and there are presently 65 taxicabs operating in the City of Asheville, 10 vans, and 3 or 4 limousines. He said, in his opinion, the City of Asheville would not need additional taxicabs until the year 2000. He said other factors that need to be considered were the fact that the present requirements for taxicab certificates need to be revised. He said the present Ordinance regulations are not adequately applied and the requirements are not being enforced. He said it was also his understanding that an Urban Mass Transportation Committee that was established in March of 1984, presented recommendations for revisions to Chapter 27 to the Legal Department for the City; however, no action has been taken on those recommendations. He said members of Council should first address proposed revisions to Chapter 27 regulating taxicabs before issuing any additional Certificates of Public Convenience and Necessity.

Joe Penland, owner of the Blue Bird Taxicab Company, said he also felt that there were presently more taxicabs being operated in the City of Asheville than needed. He said he has a permit to operate 40 taxicabs; however, because of the demand of taxicabs in the City of Asheville, he only operates 31 of those units.

Councilman Tisdale noted that he felt the petitioner for the application for a Certificate of Public Convenience and Necessity should be allowed to take the risk as to whether or not additional taxicabs are needed in the City of Asheville. He said he felt members of Council should also consider the number of tourists in the City as well as the population.

Upon inquiry of members of Council, Mr. Penland said that, to his knowledge, he has never obtained a Certificate of Public Convenience and Necessity from City Council due to the fact that he purchased existing taxicab companies in the City of Asheville.

Upon inquiry of members of Council, the Corporation Counsel stated that the code provides that if a taxicab business is out of business for more than 30 days, their Certificate of Public Convenience and Necessities are null and void.

Mayor Bissette said members of Council would be working on revisions to the current ordinance regulating taxicabs.

Upon inquiry of Councilman Price, Mr. Jackson said his client would be willing to accept a Certificate of Public Convenience and Necessity to operate no more than 3 taxicabs in the City of Asheville until a new ordinance is adopted and that he will comply with any new ordinance adopted if it was not too cumbersome.

PUBLIC HEARING - SCHWAB CONSTRUCTION COMPANY SUBDIVISION - LOCATED OFF LAKESHORE DRIVE

4. A public hearing was continued relative to the final plat of the Schwab Construction Company Subdivision to be located off Lakeshore Drive.

Mayor Bissette said the Asheville Planning and Zoning Commission at a meeting held June 11, 1986, approved the preliminary plat subject to the developer providing a 16' wide paved drive to all four parcels and recommending that City Council consider placing a caution signal light and signage on each side of the entrance road. The final plat of the Schwab Construction Company Subdivision is to be located off Lakeshore Drive. This plat was prepared by Webb Morgan, R.L.S., for Schwab Construction Company, Developer, and submitted in accordance with Ordinance #424, as amended. This public hearing was continued from the August 26, 1986, meeting.

Councilman Michalove said in light of discussion during the pre-Council work session, he moved that the public hearing be continued until September 9, 1986, without further advertisement. This motion was seconded by Vice-Mayor Frank and carried unanimously.

Councilman Michalove noted that during the pre-Council meeting, members of Council asked that the City staff discuss with the developer of the proposed project; specifications relative to the road, a turnaround at the end of the road, and final ownership of the road.

PUBLIC HEARING - CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO BEAVER LAKE CAB COMPANY

RESOLUTION NO. 86-163 - RESOLUTION AUTHORIZING THE ISSUANCE OF A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO BEAVER LAKE CAB COMPANY

5. A public hearing was held relative to authorizing the issuance of a Certificate of Public Convenience and Necessity to Beaver Lake Cab Company.

Mayor Bissette said this resolution would authorize the City Manager to issue a Certificate of Public Convenience and Necessity to Beaver Lake Cab Company pursuant to Section 27-34 of the Code of Ordinances of the City of Asheville upon proof of financial responsibility in accordance with N. C. Gen. Stat. Sec. 20-280.

Corporation Counsel Slawter outlined the requirements for the issuance of a Certificate of Public Convenience and Necessity as specified in Chapter 27 of the Code of Ordinances of the City of Asheville.

Cecil Jackson, Attorney for the petitioner Paul Davis, presented members of Council with several affidavits relative to Mr. Davis' request for a Certificate of Public Convenience and Necessity, and his reputation as a business person in the City of Asheville. He said he felt there was a demand in the City of Asheville for a good taxicab service. He said he felt the Beaver Lake Cab Company could serve the public's needs. He said since there have been quiet a number of mergers with taxicab companies in the last few years, this has created competition. He said the majority of the cab companies in the City of Asheville operate under lease/option policies which

Mayor Bissette said this budget ordinance amendment is to appropriate $140,000.00 for City participation in the Mapping Program. He said funding will be provided in the Sewer Capital Fund as follows: Contribution from Water Fund - $35,000.00, contribution from the General Fund - $105,000.00 (additional half cent sales tax).

Mayor Bissette said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety unless there was specific request to do so.

Councilman Tisdale moved for the adoption of Ordinance No. 1603. This motion was seconded by Councilman Price.

On a roll call vote of 7-0, Ordinance No. 1603 passed on first and final reading.

Complete text of Ordinance No. 1603 will be found in Ordinance Book No. 11 at page 56.

RESOLUTION NO. 86-164 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH BUNCOMBE COUNTY, THEREBY ACCEPTING BUNCOMBE COUNTY'S OFFER TO PARTICIPATE IN A JOINT MAPPING PROJECT

8. Consideration was given to a resolution authorizing the City Manager to enter into an agreement with Buncombe County, thereby accepting Buncombe County's offer to participate in a joint mapping project.

Mayor Bissette said Asheville City Council finds that it is in the best interest of the citizens of Asheville to accept Buncombe County's offer to participate in a joint mapping project, and to enter into an agreement with Buncombe County. This joint agreement will eliminate the need for two separate mapping projects, thereby eliminating duplication of effort and cost to both City and County residents. Such an integrated mapping system will allow enhanced levels of service by the ability to share information between the governments. He said funding will be provided from the Sewer Capital Budget in the amount of $140,000.00

Mayor Bissette said members of Council were previously furnished copies of the resolution and it would not be read in its entirety unless there was a specific request to do so.

Upon motion of Councilman Tisdale, seconded by Councilman Price, Resolution No. 86-164 was unanimously adopted.

Complete text of Resolution No. 86-164 will be found in Resolution Book No. 16 at page 136.

APPROVAL OF THE CONSENT AGENDA

9. Consideration was given to a motion approving the consent agenda.

Mayor Bissette said the following items are of a routine nature and they have been previously reviewed by the members of the City Council. Therefore, by unanimous vote to approve these items, the City Council may, pursuant to the procedures established in Ordinance No. 1008, adopt all of

Councilman Bratton said she felt the current ordinance should be followed, and she was not prepared to vote on this issue due to the lack of information and reports from the City staff. She said she felt it was the responsibility of the City staff to conduct a study and survey to determine the need for taxicabs in the City of Asheville.

Mr. Williams said he felt members of Council should contact other cities in North Carolina to determine their methods of regulations. He said he felt this research was needed prior to another Certificate of Public Convenience and Necessity being issued.

After discussion, Mayor Bissette closed the public hearing at 5:30 p.m.

Upon motion of Councilman Boland, seconded by Vice-Mayor Frank, Resolution No. 86-163 was adopted on a voice vote of 6-1, with Councilman Bratton voting "no", authorizing the Beaver Lake Cab Company to operate no more than 3 taxicabs in the City of Asheville.

Councilman Bratton noted that she was not voting against the Beaver Lake Cab Company, but felt that there was a lack of information relative to the issue.

Complete text of Resolution No. 86-163 will be found in Resolution Book No. 16 at page 135.

ORDINANCE NO. 1602 - BUDGET ORDINANCE AMENDMENT TO PROVIDE ADDITIONAL FUNDING FOR THE HISTORIC RESOURCES COMMISSION

6. Consideration was given to a budget ordinance amendment to provide additional funding for the Historic Resources Commission.

Mayor Bissette said this budget ordinance amendment is to provide additional funding for the Historic Resources Commission through October, 1986.

Mayor Bissette said the ordinance was previously presented to members of Council and would not be read in its entirety unless there was a specific request to do so.

Vice-Mayor Frank moved for the adoption of Ordinance No. 1602. This motion was seconded by Councilman Price.

On a roll call vote of 7-0, Ordinance No. 1602 passed on first and final reading.

Complete text of Ordinance No. 1602 will be found in Ordinance Book No. 11 at Page 54 and 55.

ORDINANCE NO. 1603 - BUDGET ORDINANCE AMENDMENT FOR APPROPRIATING FUNDS FOR THE CITY'S PARTICIPATION IN THE MAPPING PROGRAM

7. Consideration was given to a budget ordinance amendment for appropriating funds for the City's participation in the Mapping Program.

resources of the staff of St. Joseph's Urgent Care, Inc., for the past four and one-half years. He said this would be $3,500.00 annually. This fee can be covered under 1986-87 Professional Services (.044 line item) in Employee Services' budget.

Mayor Bissette and Councilman Michalove requested that they be excused from voting on the resolution relative to St. Joseph's Urgent Care, Inc., due to a conflict of interest. Mayor Bissette's conflict being that his law firm represents St. Joseph's Hospital and Councilman Michalove is working for a subsidiary of the St. Joseph's Hospital.

Councilman Price moved to excuse Mayor Bissette and Councilman Michalove from participation and vote on the resolution relative to the contractual agreement with St. Joseph's Urgent Care, Inc. This motion was seconded by Councilman Bratton and carried unanimously.

Upon motion of Councilman Tisdale, seconded by Councilman Price, Resolution No. 86-167 was unanimously adopted.

Complete text of Resolution No. 86-167 will be found in Resolution Book No. 16 at page 139.

ORDINANCE NO. 1604 - AN ORDINANCE AMENDING ARTICLE IV, SPEED REGULATIONS, OF CHAPTER 28 OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE (SMOKEY PARK HIGHWAY)

11. Consideration was given to an ordinance amending Article IV, Speed Regulations, Chapter 28 of the Code of Ordinances of the City of Asheville to provide a speed limit on Smoky Park Highway from a point 0.06 miles northeast of I-40 to Asheville School Road at 40 miles per hour.

Mayor Bissette noted that this ordinance would be a concurring ordinance with the North Carolina Department of Transportation.

Councilman Michalove moved for the adoption of Ordinance No. 1604. This motion was seconded by Vice-Mayor Frank.

On a roll call vote of 7-0, Ordinance No. 1604 passed on first reading.

Councilman Price moved to suspend the rules and proceed to the second reading of Ordinance No. 1604. This motion was seconded by Councilman Boland and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1604 passed on second reading.

Councilman Price moved to suspend the rules and proceed to the third and final reading of Ordinance No. 1604. This motion was seconded by Councilman Boland and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1604 passed on third and final reading.

Complete text of Ordinance No. 1604 will be found in Ordinance Book No. 11 at Page 57.

the items with one motion without the full reading and/or separate motion adopting each individual item. Upon the request of a citizen, a member of the City Council, and/or a member of the City staff, any single item scheduled for approval on the consent agenda may be considered separately.

Resolution No. 86-165

A. Consideration of a resolution authorizing the City Manager to enter into an agreement with the Asheville-Buncombe Community Relations Council.

HIGHLIGHTS: The Asheville-Buncombe Community Relations Council was established in 1960 by joint action of the Asheville City Council and Buncombe County Commissioners for the purpose of bringing together a comprehensive and county-wide effort to solve human problems related to racial, ethnic, religious, political and class relationships. This resolution will authorize the City Manager to enter into an agreement with the Asheville-Buncombe Community Relations Council.

FISCAL IMPACT: This contract in the amount of $53,387 is for 50% of the City/County contribution to the Community Relations Council per the terms of the Water Agreement. Adequate funding is budgeted for Fiscal 1986/87.

Resolution Book 16, Page 137

Resolution No. 86-166

B. Consideration of a resolution appointing a member to the Equal Employment Opportunity Task Force.

HIGHLIGHTS: Sheila Fellerath was unable to serve on the Equal Employment Opportunity Task Force. This resolution will appoint David R. Hillier to fill the existing vacancy.

Resolution Book 16, Page 138

Councilman Michalove moved to approve the Consent Agenda. This motion was seconded by Councilman Price and carried unanimously.

RESOLUTION NO. 86-167 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACTUAL AGREEMENT WITH ST. JOSEPH'S URGENT CARE, INC., FOR THE PURPOSE OF PROVIDING ATTENDING PHYSICIAN SERVICES TO THE EMPLOYEE INFIRMARY

10. Consideration was given to a resolution authorizing the City Manager to enter into a contractual agreement with St. Joseph's Urgent Care, Inc., for the purpose of providing attending physician services to the Employee Infirmary.

Mayor Bissette said this resolution will authorize the City Manager to enter into an agreement with St. Joseph's Urgent Care, Inc., for the purpose of providing medical treatment, advice, and consultations to the Employee Infirmary on an on-going basis. The City of Asheville has utilized the

LAWSUITS - HOUSING AUTHORITY OF THE CITY OF ASHEVILLE VS. CONDEMNATION OF CORA SILLS ET. AL. PROPERTY EAST END VALLEY STREET - CONDEMNATION OF LOIS FOSTER ROBERTSON ET. AL. PROPERTY EAST END VALLEY STREET - CONDEMNATION OF T. M. ELROD ET. AL. PROPERTY EAST END VALLEY STREET AREA - CONDEMNATION OF WALTER THOMAS HOUSE ET. AL. PROPERTY EAST END VALLEY STREET AREA

15. The City Manager said the City of Asheville was served on August 26, 1986, with the following lawsuits in which the City of Asheville is a defendant. Condemnation of Cora Sills et.al. property East End Valley Street, Condemnation of T. M. Elrod, et.al, property East End Valley Street area, condomnation of Walter Thomas House, et. al., property East End Valley Street Area. Condemnation of Lois Foster Robertson et. al. property East End Valley Street area.

Mayor Bissette referred the lawsuits to the Corporation Counsel for investigation and recommendation.

RALPH BISHOP - COMMENTS RELATIVE TO HIS RIGHT TO OBTAIN PUBLIC RECORDS - LOTTERY SALES IN THE CITY OF ASHEVILLE

16. Ralph Bishop again spoke to members of Council relative to his right to obtain public records and lottery sales in the City of Asheville.

ADJOURNMENT

Upon motion of Councilman Tisdale, seconded by Councilman Boland, the meeting adjourned at 5:55 p.m.

MAYOR

CITY CLERK

SCHEDULING OF PUBLIC HEARING RELATIVE TO THE PROPOSED CHESTNUT-LIBERTY STREET AREA BEING DESIGNATED AS HISTORIC DISTRICT

12. Mayor Bissette noted that consideration of scheduling a public hearing relative to a revised proposal to designate the Chestnut-Liberty Street area as a historic district would be on City Council's agenda on September 9, 1986.

It was noted that after the public hearing is scheduled on September 9, 1986, a legal advertisement would be placed in the Asheville Citizen-Times two consecutive weeks as required by North Carolina General Statutes, and that all property owners in the adjacent area would be notified of the date and time of the public hearing.

RESOLUTION NO. 86-168 - RESOLUTION AUTHORIZING THE CITY MANAGER OF THE CITY OF ASHEVILLE TO ENTER INTO AN AGREEMENT WITH THE NEO CORPORATION TO REMOVE ASBESTOS FROM THE HEATING SYSTEM OF THE MUNICIPAL BUILDING

13. Consideration was given to a resolution authorizing the City Manager of the City of Asheville to enter into an agreement with the NEO Corporation to remove asbestos from the heating system of the Municipal Building.

The City Manager said there is a need to upgrade the heating system in the Municipal Building in accordance with the laws of the State of North Carolina governing the heat of such buildings. He said it would be necessary to remove asbestos insulation from the pipes and boilers of the Municipal Building before a new boiler can be installed. He said NEO Corporation of Waynesville, N. C., is duly licensed and capable of removing this asbestos under federal guidelines and restrictions and is the low bidder for this work. He said this resolution would authorize the City Manager to enter into an agreement and any change orders with the NEO Corporation for the removal of the asbestos from the heating system of the Municipal Building at a price not to exceed $20,000.00.

Upon motion of Councilman Price, seconded by Councilman Michalove, Resolution No. 86-168 was unanimously adopted.

Complete text of Resolution No. 86-168 will be found in Resolution Book No. 16 at Page 140.

CLAIMS - WILLIAM A. RIDDLE (SANITATION) - LYNN CHANDLER (STREETS) - AERIAL PHOTOGRAPHY SERVICE (WATER) - 7-UP ASHEVILLE COMPANY, INC. (STREETS)

14. The City Manager presented claims received from William A. Riddle, Lynn Chandler, Aerial Photography Service and 7-Up Asheville Company, Inc.

Mayor Bissette referred the claims to the Corporation Counsel for investigation and recommendation.

property which became a part of the City of Asheville in 1983 as a non-contiguous, or "Satellite" annexation area be zoned CH Commercial Highway District.

Mayor Bissette opened the public hearing at 4:17 p.m.

The Deputy City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said property was annexed by consent of the property owner. He said all the property involved is used for commercial businesses, and the property would be zoned Commercial Highway District.

Mayor Bissette closed the public hearing at 4:18 p.m.

Mayor Bissette said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety unless there was a specific request to do so.

Vice-Mayor Frank moved for the adoption of Ordinance No. 1605. This motion was seconded by Councilman Price.

On a roll call vote of 6-0, Ordinance No. 1605 passed on first reading.

Vice-Mayor Frank moved to suspend the rules and proceed to the second reading of Ordinance No. 1605. This motion was seconded by Councilman Boland and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1605 passed on second reading.

PUBLIC HEARING - ZONING PROPERTY LOCATED ON TUNNEL ROAD (THE POSEIDON RESTAURANT)

ORDINANCE NO. 1606 - AN ORDINANCE AMENDING ORDINANCE NO. 322 KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE" AS AMENDED - PROPERTY KNOWN AS THE POSEIDON RESTAURANT LOCATED ON TUNNEL ROAD

3. A public hearing was held relative to an ordinance amending Ordinance No. 322, known as "an ordinance providing for the zoning of the City of Asheville" as amended - property known as The Poseidon Restaurant located on Tunnel Road.

Mayor Bissette said the Asheville Planning and Zoning Commission on July 9, 1986, reviewed and recommended that the Poseidon Restaurant property which became a part of the City of Asheville in 1983 as a non-contiguous, or "satellite" annexation area be zoned CH Commercial Highway District.

Mayor Bissette opened the public hearing at 4:20 p.m.

The Deputy City Clerk presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

There being no comments relative to the zoning of the property, Mayor Bissette closed the public hearing at 4:21 p.m.

Tuesday - September 9, 1986 - 4:00 p.m.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Mary Lloyd Frank; Walter R. Boland; Kenneth M. Michalove, Norma T. Price, and George M. Tisdale; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; Deputy City Clerk Carol Hensley.

Absent: Councilman Wilhelmina Bratton and Associate City Manager/City Clerk William F. Wolcott, Jr.

INVOCATION

The invocation was given by Councilman Kenneth Michalove.

APPROVAL OF THE MINUTES - SEPTEMBER 2, 1986 MEETING

1. Consideration was given to the approval of the minutes of the September 2, 1986, meeting.

Mayor Bissette announced the approval of the minutes as submitted.

PROCLAMATION - SEPTEMBER 15 - 19, 1986 - "PRISONERS OF WAR WEEK"

1A. Mayor Bissette read a proclamation proclaiming the week of September 15 - 19, 1986, as "Prisoners of War Week".

Mayor Bissette presented the proclamation to David Brown.

RESOLUTION NO. 86-169 - RESOLUTION IN MEMORIUM OF FORMER GOVERNOR DAN MOORE

1B. Mayor Bissette read a resolution in memorium of former governor Dan Moore, stating that the City Council wishes to records its deep sorrow over the recent passing of former governor Dan Moore.

Upon motion of Councilman Tisdale, seconded by Councilman Boland, Resolution No. 86-169 was unanimously adopted.

Complete text of Resolution No. 86-169 will be found in Resolution Book No. 16 at page 141.

PUBLIC HEARING - ZONING PROPERTY LOCATED ON U.S. 25 (BLACK FOREST RESTAURANT)

ORDINANCE NO. 1605 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED - PROPERTY KNOWN AS THE BLACK FOREST RESTAURANT LOCATED ON U.S. 25

2. A public hearing was held relative to an ordinance amending Ordinance No. 322, known as "as ordinance providing for the zoning of the City of Asheville" as amended - property known as The Black Forest Restaurant located on U.S. 25.

Mayor Bissette said the Asheville Planning and Zoning Commission on July 9, 1986, reviewed and recommended that The Black Forest Restaurant

On a roll call vote of 6-0, Ordinance No. 1607 passed on second reading.

PUBLIC HEARING - ZONING PROPERTY NEAR INTERSECTION OF LONG SHOALS ROAD AND LEDBETTER ROAD (THE COACHLITE RESTAURANT)

ORDINANCE NO. 1608 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE" AS AMENDED - PROPERTY KNOWN AS THE COACHLITE RESTAURANT NEAR INTERSECTION OF LONG SHOALS ROAD AND LEDBETTER ROAD

5. A public hearing was held relative to an ordinance amending Ordinance No. 322 known as "an ordinance providing for the zoning of the City of Asheville" as amended - property known as The Coachlite Restaurant near intersection of Long Shoals Road and Ledbetter Road.

Mayor Bissette said the Asheville Planning and Zoning Commission on July 9, 1986, reviewed and recommended that The Coachlite Restaurant property which became a part of the City of Asheville in April, 1986, as a non-contiguous, or "satellite" annexation area be zoned CH Commercial Highway District.

Mayor Bissette opened the public hearing at 4:24 p.m.

Verl Emrick, Director of Planning, said one adjacent property owner had expressed opposition to zoning the property Commercial Highway District.

Mayor Bissette closed the public hearing at 4:25 p.m.

Mayor Bissette said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety unless there was a specific request to do so.

Councilman Tisdale moved for the adoption of Ordinance No. 1608. This motion was seconded by Vice-Mayor Frank.

On a roll call vote of 6-0, Ordinance No. 1608 passed on first reading.

Vice-Mayor Frank moved to suspend the rules and proceed to the second reading of Ordinance No. 1608. This motion was seconded by Councilman Price and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1608 passed on second reading.

PUBLIC HEARING - FINAL PLAT OF THE SCHWAB CONSTRUCTION COMPANY SUBDIVISION - LOCATED OFF LAKESHORE DRIVE

6. A public hearing was continued relative to the final plat of the Schwab Construction Company Subdivision to be located off Lakeshore Drive.

Mayor Bissette said the Asheville Planning and Zoning Commission at a meeting held June 11, 1986, approved the preliminary plat subject to the developer providing a 16' wide paved drive to all four parcels and recommending

Mayor Bissette said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety unless there was a specific request to do so.

Councilman Boland moved for the adoption of Ordinance No. 1606. This motion was seconded by Councilman Price.

On a roll call vote of 6-0, Ordinance No. 1606 passed on first reading.

Vice-Mayor Frank moved to suspend the rules and proceed to the second reading of Ordinance No. 1606. This motion was seconded by Councilman Price and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1606 passed on second reading.

PUBLIC HEARING - ZONING PROPERTY LOCATED ON U.S. 19-23 (THE RAMADA INN-WEST)

ORDINANCE NO. 1607 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE" AS AMENDED - PROPERTY KNOWN AS THE RAMADA INN-WEST LOCATED ON U.S. 19-23

4. A public hearing was held relative to an ordinance amending Ordinance No. 322, known as "an ordinance providing for the zoning of the City of Asheville," as amended property known as The Ramada Inn-West located on U.S. 19-23.

Mayor Bissette said the Asheville Planning and Zoning Commission on July 9, 1986, reviewed and recommended that The Ramada Inn-West property which became a part of the City of Asheville in 1984 as a non-contiguous, or "satellite" annexation area be zoned CH Commercial Highway District.

Mayor Bissette opened the public hearing at 4:22 p.m.

The Deputy City Clerk presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

There being no further comments relative to the zoning of the property, Mayor Bissette closed the public hearing at 4:23 p.m.

Mayor Bissette said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety unless there was a specific request to do so.

Councilman Boland moved for the adoption of Ordinance No. 1607. This motion was seconded by Councilman Tisdale.

On a roll call vote of 6-0, Ordinance No. 1607 passed on first meeting.

Vice-Mayor Frank moved to suspend the rules and proceed to the second reading of Ordinance No. 1607. This motion was seconded by Councilman Price and carried unanimously.

Resolution Book 16 - page 143.

C. Consideration of a motion relative to bids received for one diesel engine tractor with mower.

HIGHLIGHTS: Sealed bids were invited to furnish one (1) diesel engine tractor with hydraulic arm mower to the Parks, Recreation and Public Facilities Department. Specifications called for a four (4) cyclinder engine tractor with a minimum of 239 cubic inch displacement. Four (4) bids were received. It is recommended that Bruce Machinery Company of Asheville be accepted on the basis of being the lowest responsible bidder meeting specifications.

FISCAL IMPACT: $27,617.16 - Funding is available in the Fiscal 1986/87 Capital Budget. Account Code 17-502-0740-321.

D. Resolution No. 86-172

Consideration of a resolution appointing members to the Planning & Zoning Commission.

HIGHLIGHTS: This resolution will appoint Augusta Young and Ed Dyson to a two year term effective October 1, 1986, term expiring August 14, 1988.

FISCAL IMPACT: None

Resolution Book 16 - page 144.

E. Consideration of a motion to schedule a public hearing for the site plan of a proposed Bi-Lo Shopping Center to be located on Hendersonville Road for September 30, 1986.

HIGHLIGHTS: The Asheville Planning and Zoning Commission at a meeting held August 27, 1986, reviewed the site plan of a proposed Bi-Lo Shopping Center to be located on Hendersonville Road. The plan was prepared by Gray Engineering Consultants, Inc., Greenville, South Carolina for the Sofran Company, Atlanta, Georgia, Developer, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of the project, and signage, subject to 1) compliance with the Erosion Control Ordinance; 2) approval of curb cut by NCDOT; 3) location of trash compactor to southern side of building; 4) recommend that buffering conditions around the dumpster be met by fencing; and 5) buffer with trees on the east side.

FISCAL IMPACT: None

F. Consideration of a motion to schedule a public hearing for a site plan of Phase II of Pinecliff Condominiums located on State Road 2243 for September 30, 1986.

HIGHLIGHTS: The Asheville Planning and Zoning Commission at a meeting held August 6, 1986, reviewed a site plan of Phase II of

that City Council consider placing a caution signal light and signage on each side of the entrance road. The final plat of the Schwab Construction Company Subdivision is to be located off Lakeshore Drive. This plat was prepared by Webb Morgan, R.L.S., for Schwab Construction Company, Developer, and submitted in accordance with Ordinance #424, as amended. This public hearing was continued from the August 26, 1986 meeting. At the September 2, 1986 meeting, this public hearing was continued until the September 9, 1986 meeting.

Verl Emrick, Director of Planning, said the developer has requested that the public hearing be continued until technical problems relative to the roadway are solved.

Councilman Tisdale moved to continue the public hearing until September 16, 1986, without further advertisement. This motion was seconded by Councilman Price and carried unanimously.

APPROVAL OF THE CONSENT AGENDA

7. Consideration was given to a motion approving the consent agenda.

Mayor Bissette said the following items are of a routine nature and they have been previously reviewed by the members of the City Council. Therefore, by unanimous vote to approve these items, the City Council may, pursuant to the procedures established in Ordinance No. 1008, adopt all of the items with one motion without the full reading and/or separate motion adopting each individual item. Upon the request of a citizen, a member of the City Council, and/or a member of the City staff, any single item scheduled for approval on the consent agenda may be considered separately.

A. **Resolution No. 86-170**

Consideration of a resolution authorizing the Purchasing Director to sell surplus motor vehicles and other surplus property at public auction.

HIGHLIGHTS: This resolution will authorize the Purchasing Director to sell surplus motor vehicles and other surplus property at a public auction.

FISCAL IMPACT: This auction will generate an estimated $30,000.00 in revenues.

Resolution Book 16 - page 142.

B. **Resolution No. 86-171**

Consideration of a resolution authorizing the City Manager or his designee to enter into agreements necessary to conduct the French Broad Riverfest and authorizing the City Manager to temporarily close a portion of Riverside Drive for the French Broad Riverfest to be held on Saturday, September 13, 1986

HIGHLIGHTS: This resolution will authorize the City Manager or his designee to enter into agreements necessary to conduct the French Broad Riverfest and that the City Manager be authorized to temporarily close a portion of Riverside Drive for the French Broad Riverfest for Saturday, September 13, 1986, from 8:00 a.m. until 9:00 p.m.

Mayor Bissette noted that Carolyn Humphries, Executive Director of the Historic Resources Commission, had presented the revised boundaries to members of Council during the pre-Council work session. He said it was the intent of the Council to advertise and consider the boundaries as presented by Carolyn Humphries.

See amendment page 349 ■ 9/23/86

Councilman Michalove, using a map as presented by the Historic Resources Commission, explained that it was his understanding that controlling design review could be done in two ways - an historic overlay and a redevelopment/renewal plan. He expressed concern that this area was not being properly planned for and needed to be looked at in terms of overall zoning and a redevelopment plan bordering Merrimon, Murdock, Charlotte Street and I-240. He said that the proposed historic district was too large and did not follow logical lines and if an historic district were done, he would prefer seeing a smaller district at this time, say including the Jefferson Apts. on Chestnut to Liberty St., east along the back property lines of the property fronting the north side of Chestnut to Washington St., north to Hillside then south on Liberty back to Chestnut. He explained that to create a large Historic District at this time, without an overall plan would be a disservice to the area because once the area was designated historic it would be different to reduce the size, wheras, starting small and building the size, if appropriate, would be a more logical approach. He also said that Historic houses of real significance could be moved to an historic district in another location.

Councilman Price noted that in order to designate the Chestnut-Liberty Street area a redevelopment area the houses in the area would have to be designated blighted. She said this process is very long and costly. She said that she would like to proceed with the action to schedule the public hearing relative to designating the area as an historic district as presented by the Historic Resources Commission.

Councilman Michalove said since members of Council had agreed to look at the overall zoning for the entire City of Asheville he felt it was a disservice to the citizens to designate this property as an historic district.

A discussion was held relative to including the "Penland property" in the Chestnut-Liberty Street historic district. Carolyn Humphries, Executive Director of Historic Resources Commission, said she felt it would be best to leave the Penland property in the district in order that it could be used as an entrance point.

Councilman Price moved to schedule a public hearing relative to the adoption of an ordinance amending Chapter 30 of the Code of Ordinances of the City of Asheville to create the Chestnut-Liberty Street area as local historic district for September 30, 1986, including three lots on Charlotte Street, north of Broad Street, presently owned by Penland and sons. This motion was seconded by Councilman Tisdale.

Tim Warner, of 87 North Liberty Street, spoke in support of the Historic Resources Commission's designation and urged Council's adoption of the boundaries as proposed, including the Penland and Sons property as an historic district.

Ed Schell, of 12 Linden Avenue, speaking on behalf of the Community Club, spoke in support of the historic designation and questioned why Councilman Michalove was questioning the designation of the historic district.

Pinecliff Condominiums located on State Road 2243. The plan prepared by Traber Associates, Architect, for Piney Mountain Associates, Inc., Developer, and submitted in accordance with the Group Development section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of the project subject to: granting water line easement in favor of the City of Asheville or moving 16" line, and compliance with the Erosion Control Ordinance.

Councilman Price moved to approve the consent agenda. This motion was seconded by Vice-Mayor Frank and carried unanimously.

RESOLUTION NO. 86-173 - RESOLUTION AMENDING RESOLUTION NO. 85-8 ESTABLISHING GRADING PERMIT FEES FOR APPLICATIONS REQUIRED BY THE SOIL EROSION AND SEDIMENTATION CONTROL ORDINANCE

8. Consideration was given to a resolution amending Resolution No. 85-8 establishing grading permit fees for applications required by the Soil Erosion and Sedimentation Control Ordinance.

Mayor Bissette said this resolution will amend Resolution No. 85-8 establishing grading permit fees for applications made pursuant to the City of Asheville's Soil Erosion and Sedimentation Control Ordinance. This will increase revenues by approximately $12,000 per year.

The City Manager stated that when the Soil Erosion and Sedimentation Control Ordinance was adopted, the fee schedule was not included. He said the approximate cost of enforcing this ordinance is $72,000 per year and the City is presently receiving approximately $5,000 in revenues. He said after surveying various cities, it was determined that the grading permit fees as presented should be adopted. He said this still would not recover all the costs associated for administration of the ordinance.

Upon motion of Vice-Mayor Frank, seconded by Councilman Boland, Resolution No. 86-173 was unanimously adopted.

Complete text of Resolution No. 86-173 will be found in Resolution Book No. 16 at page 145.

SCHEDULING PUBLIC HEARING - RELATIVE TO ADOPTION OF AN ORDINANCE CREATING THE CHESTNUT-LIBERTY STREET AREA AS LOCAL HISTORIC DISTRICT

9. Consideration was given to a motion to schedule a public hearing relative to the adoption of an ordinance amending Chapter 30 of the Code of Ordinances of the City of Asheville to create Chestnut-Liberty Street area as local historic district for September 30, 1986.

Mayor Bissette said this ordinance would designate the Chestnut-Liberty Street neighborhood as a local historic district. Certificates of Appropriateness would be required by a property owner before any exterior rehabilitation or new construction can take place. At the August 12, 1986 meeting, a public hearing was held to consider a proposal by the Historic Resources Commission; however, this matter was remanded to the Historic Resources Commission to reconsider alternate plans that include a smaller area and different boundaries. The Historic Resources Commission has now presented Council with a revised proposal.

Mayor Bissette referred the claims to the Corporation Counsel for investigation and recommendation.

ADJOURNMENT

Upon motion of Councilman Boland, seconded by Councilman Tisdale, the meeting adjourned at 5:45 p.m.

MAYOR

CITY CLERK

Councilman Michalove responded that the Chestnut-Liberty Street area has been in progress since February 1986. He said he felt members of Council should be looking at the community at large rather than individual property owners.

On a voice vote of 5-1, Councilman Price's motion to schedule the public hearing passed with Councilman Michalove voting "no".

RESOLUTION NO. 86-174 - RESOLUTION OF APPRECIATION TO C. LEROY ROBINSON FOR SERVICES AS CHAIRMAN OF THE METROPOLITAN SEWERAGE DISTRICT BOARD

Mayor Bissette read a resolution of appreciation to C. LeRoy Robinson for services as Chairman of the Metropolitan Sewerage District Board who has served for 23 years and has been the Board's Chairman for the past 12 years. He said Mr. Robinson is resigning from the Metropolitan Sewerage District Board effective September 16, 1986. He said this resolution would express City Council's appreciation to Mr. Robinson for his services as Chairman of the Metropolitan Sewerage District Board and for his services to the citizens of this community in this capacity.

Upon motion of Vice-Mayor Frank, seconded by Councilman Tisdale, Resolution No. 86-174 was unanimously adopted.

Complete text of Resolution No. 86-174 will be found in Resolution Book No. 16 at page 146.

REPORT RELATIVE TO INTERGOVERNMENTAL SERVICES COMMITTEE MEETING OF SEPTEMBER 9, 1986

Vice-Mayor Frank said all members of the Intergovernmental Services Committee met at 12:30 p.m. on September 9, 1986. She said they discussed the emergency 911 number, the proposed MSD agreement, and the central warehousing proposal. She said the committee members also requested that members of Council and the County Commissioners discuss the Water Agreement in November.

MAYOR BISSETTE COMMENTS - MEETING WITH NORTH CAROLINA BOARD OF REALTORS

Mayor Bissette said he had met with the Home Builders Association and received a request that they be notified of any matters being considered by Council in which the Home Builders Association might have an interest. It was agreed by members of Council that the City Manager inform the Home Builders Association of any matters being considered by members of Council relative to real estate.

LETTER OF SYMPATHY TO BE SENT TO FAMILY OF CARL HYATT

Mayor Bissette said a letter of sympathy would be sent to the family of Carl Hyatt. He said Mr. Hyatt was the former Director of Public Safety for the City of Asheville and had contributed tremendously in many capacities to the community over a number of years.

CLAIMS - SUSAN KELLY (SEWER) - DAVID GAY (SEWER) - RUTH OWENBY (SEWER) - TOM HARDER (SANITATION)

The City Manager presented claims received from Susan Kelly, David Gay, Ruth Owenby, and Tom Harder.

PROCLAMATION - WEEK OF SEPTEMBER 21, 1986 - "PRINCE HALL MASONIC WEEK"

5. Mayor Bissette read a proclamation proclaiming the week of September 21, 1986, as "Prince Hall Masonic Week".

Mayor Bissette presented the proclamation to Oscar McCoy.

PROCLAMATION - SEPTEMBER 21 - "INTERNATIONAL DAY OF PRAYER AND ACTION FOR HUMAN HABITAT"

6. Mayor Bissette read a proclamation proclaiming September 21 as "International Day of Prayer and Action for Human Habitat".

Mayor Bissette presented the proclamation to Thelma Caldwell with Human Habitat Incorporated.

RESOLUTION NO. 86-175 - RESOLUTION OF APPRECIATION TO DISTRICT CHIEF HOLLY P. OXNER

7. Consideration was given to a Resolution of Appreciation to District Chief Holly P. Oxner.

Mayor Bissette said Holly P. Oxner has faithfully served the City of Asheville since 1956, being promoted to District Chief in 1982. Holly Oxner's retirement became effective August 1, 1986, and the City Council expresses its appreciation for his loyalty and dedication to the citizens of the City of Asheville.

Upon motion of Councilman Boland, seconded by Vice-Mayor Frank, Resolution No. 86-175 was unanimously adopted.

Complete text of Resolution No. 86-175 will be found in Resolution Book No. 16 at page 147.

PUBLIC HEARING - FINAL PLAT OF THE SCHWAB CONSTRUCTION COMPANY SUBDIVISION - OFF LAKESHORE DRIVE

8. A public hearing was continued relative to the final plat of the Schwab Construction Company Subdivision to be located off Lakeshore Drive.

Mayor Bissette said the Asheville Planning and Zoning Commission at a meeting held June 11, 1986, approved the preliminary plat subject to the developer providing a 16' wide paved drive to all four parcels and recommending that City Council consider placing a caution signal light and signage on each side of the entrance road. The final plat of the Schwab Construction Company subdivision is to be located off Lakeshore Drive. This plat was prepared by Webb Morgan, R.L.S., for Schwab Construction Company, Developer, and submitted in accordance with Ordinance #424, as amended. This public hearing was continued from the August 26, 1986 meeting. At the September 2, 1986 meeting, this public hearing was continued until the September 9, 1986 meeting. At the September 9, 1986 meeting, the public hearing was continued until September 16, 1986.

Tuesday - September 16, 1986 - 4:00 p.m.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Mary Lloyd Frank; Councilmen Wilhelmina Bratton, Walter R. Boland; Kenneth M. Michalove, Norma T. Price, and George M. Tisdale; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; Deputy City Clerk Carol Hensley.

Absent: Associate City Manager/City Clerk William F. Wolcott, Jr.

INVOCATION

The invocation was given by Councilman Kenneth Michalove.

PROCLAMATION - OCTOBER 5, 1986 - "PEACE DAY"

1. Mayor Bissette read a proclamation proclaiming October 5, 1986 as "Peace Day" in the City of Asheville.

Mayor Bissette said since Mary Ann Ellison was unable to attend the meeting, a copy of the proclamation would be mailed to her.

PROCLAMATION - SEPTEMBER 29 - OCTOBER 5, 1986 - "FAMILY WEEK" - MONTH OF OCTOBER - "STRENGTHENING FAMILIES MONTH"

2. Mayor Bissette read a proclamation proclaiming September 29 - October 5, 1986, as "Family Week" and the month of October "Strengthening Families Month".

Mayor Bissette presented the proclamation to Jim Stikney, President of the Family Service Center and Don Reed, Past-President of the Family Service Center.

Jim Stikney outlined the events that would be taking place during the 75th anniversary of the Family Service Center.

PROCLAMATION - SEPTEMBER 17 - SEPTEMBER 23, 1986 - "CONSTITUTION WEEK"

3. Mayor Bissette read a proclamation proclaiming September 17-23, 1986 as "Constitution Week".

Mayor Bissette presented the proclamation to Helen Brown and Mary Alice Baird with the DAR Chapters in the City of Asheville.

PROCLAMATION - SEPTEMBER 22, 1986 - "AMERICAN BUSINESS WOMEN'S DAY"

4. Mayor Bissette read a proclamation proclaiming September 22, 1986, as "American Business Women's Day".

Mayor Bissette presented the proclamation to Patsy Cauble, with the American Business Women's Association.

Complete text of Ordinance No. 1606 will be found in Ordinance Book No. 11 at page 60-61.

ORDINANCE NO. 1607 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED - PROPERTY KNOWN AS RAMADA INN-WEST LOCATED ON U.S. 19-23

11. Consideration was given to the third reading of Ordinance No. 1607, an ordinance amending Ordinance No. 322, known as "An ordinance providing for the zoning of the City of Asheville," as amended - property known as Ramada Inn-West located on U.S. 19-23.

Mayor Bissette said the Asheville Planning and Zoning Commission on July 9, 1986, reviewed and recommended that the Ramada Inn-West property which became a part of the City of Asheville in 1984 as a non-contiguous, or "satellite" annexation area be zoned CH Commercial Highway District. This ordinance passed first and second reading at the September 9, 1986 meeting.

Mayor Bissette said this ordinance was previously read on first and second reading and would not be reread in its entirety unless there was a specific request to do so.

On a roll call vote of 7-0, Ordinance No. 1607 passed on third and final reading.

Complete text of Ordinance No. 1607 will be found in Ordinance Book No. 11 at page 62-63.

ORDINANCE NO. 1608 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED - PROPERTY KNOWN AS THE COACHLITE RESTAURANT NEAR INTERSECTION OF LONG SHOALS ROAD AND LEDBETTER ROAD

12. Consideration was given to the third reading of Ordinance No. 1608, an ordinance amending Ordinance No. 322, known as "an ordinance providing for the zoning of the City of Asheville," as amended - property known as the Coachlite Restaurant near intersection of Long Shoals Road and Ledbetter Road.

Mayor Bissette said the Asheville Planning and Zoning Commission on July 9, 1986, reviewed and recommended that the Coachlite Restaurant property which became a part of the City of Asheville in April, 1986, as a non-contiguous, or "satellite" annexation area be zoned CH Commercial Highway District. This ordinance passed first and second reading at the September 9, 1986 meeting.

Mayor Bissette said this ordinance was previously read on first and second reading and would not be reread in its entirety unless there was a specific request to do so.

On a roll call vote of 7-0, Ordinance No. 1608 passed on third and final reading.

Complete text of Ordinance No. 1608 will be found in Ordinance Book No. 11 at page 64-65.

Mayor Bissette said it was his understanding that the City staff is still waiting for a revised plat from the developer relative to the Schwab Construction Company Subdivision.

Councilman Tisdale moved to continue the public hearing until October 14, 1986, without further advertisement. This motion was seconded by Councilman Price and carried unanimously.

ORDINANCE NO. 1605 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED - PROPERTY KNOWN AS THE BLACK FOREST RESTAURANT LOCATED ON U.S. 25

9. Consideration was given to the third reading of Ordinance No. 1605, an ordinance amending Ordinance No. 322, known as "an ordinance providing for the zoning of the City of Asheville," as amended, property known as The Black Forest Restaurant located on U.S. 25.

Mayor Bissette said the Asheville Planning and Zoning Commission on July 9, 1986, reviewed and recommended that the Black Forest Restaurant property which became a part of the City of Asheville in 1983 as a non-contiguous, or "Satellite" annexation area be zoned CH Commercial Highway District. This ordinance passed first and second reading at the September 9, 1986 meeting.

Mayor Bissette said this ordinance was previously read on first and second reading and it would not be reread in its entirety unless there was a specific request to do so.

On a roll call vote of 7-0, Ordinance No. 1605 passed on third and final reading.

Complete text of Ordinance No. 1605 will be found in Ordinance Book No. 11 at page 58-59.

ORDINANCE NO. 1606 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED - PROPERTY KNOWN AS THE POSEIDON RESTAURANT LOCATED ON TUNNEL ROAD

10. Consideration was given to the third reading of Ordinance No. 1606, an ordinance amending Ordinance No. 322, known as "an ordinance providing for the zoning of the City of Asheville," as amended - property known as the Poseidon Restaurant located on Tunnel Road.

Mayor Bissette said the Asheville Planning and Zoning Commission on July 9, 1986, reviewed and recommended that the Poseidon Restaurant property which became a part of the City of Asheville in 1983 as a non-contiguous, or "satellite" annexation area be zoned CH Commercial Highway District. This ordinance passed first and second reading at the September 9, 1986 meeting.

Mayor Bissette said this ordinance was previously read on first and second reading and would not be reread in its entirety unless there was a specific request to do so.

On a roll call vote of 7-0, Ordinance No. 1606 passed on third and final reading.

Mayor Bissette said members of Council were previously furnished copies of the resolution and it would not be read in its entirety unless there was specific request to do so.

Upon motion of Vice-Mayor Frank, seconded by Councilman Price, Resolution No. 86-177 was unanimously adopted.

Complete text of Resolution No. 86-177 will be found in Resolution Book No. 16 at Page 149, 150 and 151.

RESOLUTION NO. 86-178 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE ON BEHALF OF THE CITY OF ASHEVILLE AN AMENDMENT TO THE MASTER AGREEMENT BY AND AMONG THE CITY OF ASHEVILLE, THE COUNTY OF BUNCOMBE AND SCHNEIDER NINE, INC; AN AMENDMENT TO THE AGREEMENT BY AND BETWEEN THE CITY OF ASHEVILLE AND THE COUNTY OF BUNCOMBE DATED DECEMBER 4, 1984; AND DOCUMENTS FOR THE CLOSING OF THE CONVENTIONAL LOAN FINANCING FOR THE PACK PLAZA PROJECT

15. Consideration was given to a resolution authorizing the Mayor to execute on behalf of the City of Asheville an amendment to the Master Agreement by and among the City of Asheville, the County of Buncombe and Schneider Nine, Inc; an amendment to the agreement by and between the City of Asheville and the County of Buncombe dated December 4, 1984; and documents for the closing of the conventional loan financing for the Pack Plaza Project.

Mayor Bissette read the resolution stating that this amendment would include some standard language required by the United States Department of Housing and Urban Development with regard to the Urban Development Action Grant among other things. He said the loan closing for the conventional financing on the project has been scheduled and it is necessary to authorize the Mayor to execute the documents on behalf of the City of Asheville for that loan closing.

Upon motion of Vice-Mayor Frank, seconded by Councilman Price, Resolution No. 86-178 was unanimously adopted.

Complete text of Resolution No. 86-178 will be found in Resolution Book No. 16 at Page 152 and 153.

APPROVAL OF CONSENT AGENDA

16. Consideration was given to a motion approving the consent agenda.

Mayor Bissette said the following items are of a routine nature and they have been previously reviewed by the members of the City Council. Therefore, by unanimous vote to approve these items, the City Council may, pursuant to the procedures established in Ordinance No. 1008, adopt all of the items with one motion without the full reading and/or separate motion adopting each individual item. Upon the request of a citizen, a member of the City Council, and/or a member of the City staff, any single item scheduled for approval on the consent agenda may be considered separately.

RESOLUTION NO. 86-176 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE ON BEHALF OF THE CITY OF ASHEVILLE AN AGREEMENT BY AND BETWEEN THE CITY OF ASHEVILLE AND PACK PLAZA ASSOCIATES LIMITED PARTNERSHIP TERMINATING A LEASE AGREEMENT

13. Consideration was given to a resolution authorizing the Mayor to execute on behalf of the City of Asheville an agreement by and between the City of Asheville and Pack Plaza Associates Limited Partnership terminating a lease agreement.

Mayor Bissette said the City entered into a lease agreement September 29, 1982, for property located on Biltmore Avenue, formerly owned by Bruce C. Jones and wife, Martha G. Jones, and presently owned by Pack Plaza Associates Limited Partnership. This lease agreement was amended on November 1, 1984, to provide, among other things, that the lease can be terminated prior to the expiration of the lease by either lessor or lessee, or their successors and assigns, by the giving of ten (10) days notice in writing to the other party of its intention to terminate the lease. This resolution will authorize the Mayor to execute an agreement by and between the City of Asheville and Pack Plaza Associates Limited Partnership terminating this lease.

Mayor Bissette said members of Council were previously furnished copies of the resolution and it would not be read in its entirety unless there was a specific request to do so.

Upon motion of Councilman Boland, seconded by Vice-Mayor Frank, Resolution No. 86-176 was unanimously adopted.

Complete text of Resolution No. 86-176 will be found in Resolution Book No. 16 at Page 148.

RESOLUTION NO. 86-177 - RESOLUTION OF INTENT TO CLOSE ALL PUBLIC ALLEYS LOCATED IN THE PACK PLAZA PROJECT AREA, IN THE BLOCK BORDERED BY BILTMORE AVENUE TO THE WEST, EAGLE STREET TO THE SOUTH, SOUTH MARKET STREET TO THE EAST AND PACK SQUARE TO THE NORTH, AND CALLING FOR A PUBLIC HEARING ON THE QUESTION FOR OCTOBER 14, 1986

14. Consideration was given to a Resolution of Intent to close all public alleys located in the Pack Plaza Project area, in the block bordered by Biltmore Avenue to the west, Eagle Street to the south, South Market Street to the east and Pack Square to the north, and calling for a public hearing on the question for October 14, 1986.

Mayor Bissette said a petition has been filed by Pack Plaza Associates Limited Partnership, owner of all the property located in the Pack Plaza Project in the block bounded by Biltmore Avenue to the west, Eagle Street to the south, South Market Street to the east and Pack Square to the north, requesting that all the public alleys therein, be permanently closed to public use. The permanent closing of these public alleys would not be either detrimental to or contrary to the public interest or the property rights of any individual and no individual owning property in the vicinity of said public alleys would be deprived of reasonable means of ingress and egress to this property.

DISCUSSION RELATIVE TO EQUAL EMPLOYMENT OPPORTUNITY TASK FORCE - JOHNNY HAYES

19. Johnny Hayes, a member of the Equal Employment Opportunity Task Force, presented the following resolution as presented by the Equal Employment Opportunity Task Force. The resolution is as follows:

> Whereas: the City Council of the City of Asheville has the authority under (Chapter 744 of the 1953 Session Laws, as amended by the North Carolina General Assembly.)
>
> Whereas under Section 4 of Civil Service Law which states: The Civil Service Board shall make, and may amend, rules for promoting efficiency in the classified service of the City, for the appointment, promotion, transfer, layoff, reinstatement, suspension and removal of employees in the classified service. Such rules and any amendment thereto, shall be submitted to the said Council for approval, and shall be open to public inspection, when filed with the said Council for such approval. The City Council, after giving members of the classified service and citizens of Asheville an opportunity to be heard at a public hearing, shall act upon such proposed rules and amendments, and such rules or amendments, when approved by a majority vote of the Council, shall be in full force and effect. The Council may, before approval, amend the rules or amendments thereto, submitted to it for approval.
>
> We the Equal Employment Task Force Committee, a Committee established by the City Council to investigate hiring and promotional practices of the City and to make recommendations as to their improvement for the benefit of all the citizens of the City hereby request a halt to all hiring and promotions by the Civil Service Commission and by City Manager until such time as the Council has adopted or amended a policy which will increase the opportunity to hire and promote minorities in direct proportion to their ratio within the population of the City as a whole.
>
> Humbly submitted,
>
> O. T. Tomes

Bob Smith, member of the Equal Employment Opportunity Task Force, said the Task Force Committee was not unanimous in its decision to request a halt to all firing and promotions by the Civil Service Commission and the City Manager, but they are in total agreement that there is a problem within the Asheville Police Department which prevents minority officers from rising above the rank of a sergeant. He said he felt like the moratorium on hiring and promotions is a first step to solving these problems.

Carl Johnson, said he felt the "rule of three" of the Civil Service Law is prohibiting black officers from being promoted. He said he felt it was odd that in forty years, the Asheville Police Department has not promoted a black to the rank of Lieutenant. He said he did not feel that a study was needed but that some action needed to be taken.

Resolution No. 86-179

A. **Consideration of a resolution appointing a member of the Asheville-Buncombe Crime Stoppers Committee.**

HIGHLIGHTS: This resolution will appoint Virginia Washington to fill the unexpired term of Ann Huntington, term expiring June 10, 1987.

FISCAL IMPACT: None

Resolution Book No. 16 Page 154.

Resolution No. 86-180

B. **Consideration of a resolution appointing members to Victoria of Asheville Board of Directors.**

HIGHLIGHTS: This resolution will appoint Matthew Bacoate and John F. Shuford to the Victoria of Asheville Board of Directors for a three-year term, term expiring November 29, 1988.

FISCAL IMPACT: None

Resolution Book No. 16 Page 155.

Upon motion of Councilman Price, seconded by Councilman Boland, the Consent Agenda was unanimously approved.

RESOLUTION NO. 86-181 - RESOLUTION REQUIRING EACH MEMBER OF THE CITY PLANNING COMMISSION TO VOTE UPON ALL MATTERS

17. Consideration was given to a resolution requiring each member of the City Planning Commission to vote upon all matters.

Mayor Bissette read the resolution stating that this would require each member of the City Planning Commission, including the chairman, to vote upon all matters unless otherwise disqualified. He said the City Attorney is currently reviewing the authorization to require that all members of all boards and commissions be required to vote on all matters unless they are otherwise disqualified.

Upon motion of Councilman Tisdale, seconded by Councilman Boland, Resolution No. 86-181 was unanimously adopted.

Complete text of Resolution No. 86-181 will be found in Resolution Book No. 16 at Page 156.

CLAIMS - ANN RANDALL (SANITATION) - J. L. HARRIS (TRAFFIC ENGINEERING) - FENTON CUNNINGHAM (WATER)

18. The City Manager presented claimed from Ann Randall, J. L. Harris and Fenton Cunningham.

Mayor Bissette referred the claims to the Corporation Counsel for investigation and recommendation.

does not legally have the authority to interfere with hiring, firing or promotions of City employees. He said the only three individuals that City Council could hire is the City Manager, City Clerk, and the City Attorney. He said members of Council would be in violation of the Laws of the State of North Carolina if they interfered with the hiring, firing or promotions of employees of the City of Asheville.

Ralph Bishop commented that the City Council under the City Charter has the right to investigate any department within the City of Asheville, and he felt the Asheville Police Department needs an "overhaul".

James Harrison again commented that the 1976 agreement is binding, and is not being followed. He said the department heads have not been doing anything about the plan presented on May 20, 1976. He said it was his hope that the Equal Employment Opportunity Task Force would be more effective than the agreement he was involved in 1976.

Linda Reece questioned the validity of recent tests given for sergeants and lieutenants. She said there has been a number of grievances filed by the Asheville Police Department employees relative to the scoring on such tests.

Councilman Bratton said since she has been on the Equal Employment Opportunity Task Force, she has found that a number of issues needs reviewing, one being tests being administered, and tests being implemented by department heads.

Jesse Ray, Sr., said he felt this issue has had proscrastination and excuses for years.

Bob Smith, a member of the Equal Employment Opportunity Task Force said the members are looking into a vast ocean of concerns relative to equal employment opportunities. He said he felt it was the right thing to do to put a halt to all hiring and promotions by the Civil Service Commission and the City Manager until such time Council has adopted an affirmative action program.

COMPLAINT BY HARLAN HAYNES - SPOOKS BRANCH ROAD

20. Harlan Haynes of 14 Spooks Branch Road spoke to members of Council relative to a water problem he is having on his property since the City of Asheville paved Locust Avenue.

After discussion, Mayor Bissette requested that Mr. Haynes meet with the City Manager to work out this problem.

RALPH BISHOP - COMMENTS RELATIVE TO POLICE PENSION AND DISABILITY FUND

21. Ralph Bishop again spoke to members of Council relative to his being denied copies of documents relating to the Police Pension and Disability Fund. He questioned the opinion of the Attorney General relative to his right to obtain such records.

After discussion, Mayor Bissette requested that Ralph Bishop make an appointment with him to discuss the various statutes involved.

Jesse Ray, Sr., said he felt the "system" is responsible for blacks not being promoted within the Asheville Police Department. He said he felt members of Council of the City of Asheville should give black people a chance for promotions.

James Harrison, a resident of Asheville, said he helped to solve a similar problem eleven years ago. He said an agreement was reached at that time relative to employment practices in the Police Department, on May 20, 1976. However, everyone did not do their part as far as the agreement is concerned.

Elain Petty, a Memorial Mission Hospital employee, said many of the department stores do not have black employee clerks. She said she did not feel the City of Asheville needed to study the situation, but needed to have equal representation of blacks brought in line with the black population in Asheville.

Bennie Lake said he felt the City of Asheville should do something relative to minority business problems in Asheville. He said he had previously asked for some type of loan pool for minority businesses. He said he did not feel a study is necessary. He said he would like for Council to consider minority businesses, as they address the issue of hiring and promotions within the Asheville Police Department.

Cecelia Workman also spoke relative to blacks being given the opportunity for advancement.

Johnny Hayes presented newspaper articles relative to blacks being promoted within the Asheville Police Department dated June 20, 1978. He said the Majors in the Asheville Police Department were appointed without testing. He said a number of grievances have been filed by Asheville Police Department employees regarding testing, and he said all tests given during the past year should be invalid. He said the 1979 Affirmative Action Plan that was outlined for the Asheville Police Department cannot be found.

Councilman Boland, also a member of the Equal Employment Opportunity Task Force said he felt the Asheville City Council does have a commitment for providing an affirmative action program. He said he did not feel the Task Force was just another study, but felt the study will systemize how to organize goals, time tables and a system for monitoring these goals. He said he felt the recommendation to halt hirings and promotions would be counter-productive. He said the Task Force members and members of Council should be in cooperation.

Mayor Bissette said he felt every employee in the City of Asheville needs an opportunity for promotion and advancement. He said he was committed to changing the system in an orderly fashion. He said he would oppose the recommendation for freezing hiring and promotions but would request that the City Manager, within the next thirty to sixty days, personally review all hirings and promotions in the best interest of the City of Asheville, as well as considering, in that review, that the Task Force is studying the current system. He said the City of Asheville operates under a Civil Service Law which is complicated. He said this particular law may need some amendments or changes and the Equal Employment Opportunity Task Force will be looking into recommended amendments. He further stated that the City Council members

ADJOURNMENT

Upon motion of Councilman Boland, seconded by Councilman Tisdale, the meeting adjourned at 6:15 p.m.

MAYOR

CITY CLERK

Mayor Bissette announced the approval of the minutes of the September 16, 1986 meeting as submitted.

ORDINANCE NO. 1609 - BUDGET ORDINANCE AMENDMENT FOR THE SOUTH CHARLOTTE STREET SEWER IMPROVEMENTS PROJECT

2. Consideration was given to a budget ordinance amendment for the South Charlotte Street sewer improvements project.

Mayor Bissette said this budget ordinance would appropriate funds for the South Charlotte Street sewer improvements. As a result of Municipal Agreement No. 8.2017501, certain utility relocation and betterment costs are to be borne by the City. On February 18, 1986, the Water Authority appropriated $154,890.00 for the water improvements. Total cost for sewer improvements is $190,325.00. There are sufficient existing funds within the Capital Construction (33) Fund for these projects; the contingency account within the Sewer Master Plan.

Councilman Tisdale moved for the adoption of Ordinance No. 1609. This motion was seconded by Vice-Mayor Frank.

On a roll call vote of 7-0, Ordinance No. 1609 passed on first and final reading.

Complete text of Ordinance No. 1609 will be found in Ordinance No. 11 at page 66.

PROCLAMATION - "SEVEN DAYS OF INDIGNATION AND MEMORIAM" - SEPTEMBER 24-30, 1986

3. Mayor Bissette read a proclamation proclaiming September 24 - 30, 1986, as "Seven Days of Indignation and Memoriam", of the twenty-two Turkish-Jewish citizens slaughtered at prayer and to protest the uncivilized barbarity of international terrorism.

DISCUSSION RELATIVE TO EQUAL EMPLOYMENT OPPORTUNITY TASK FORCE

4. Mayor Bissette said there has been a lot of discussion and developments surrounding the Equal Employment Opportunity Task Force and two members of that task force have resigned. He recommended to the Council that the City Manager be instructed to work with the remaining members of the task force to work for development of an affirmative action plan within four weeks. He said this is a matter City Council wants to find a solution for, and he felt this would be the quickest way to get it resolved. He said he felt this is what Council would want, and the task force wants, and he felt what the black community would want. He said he felt members of Council still have a good core of task force members that can work well with the City Manager. He said Councilman Walter Boland, the other City Council representative on the task force, will become Chairman to replace Councilman Bratton.

After discussion, City Council instructed the City Manager to work with the remaining members of the Equal Employment Opportunity Task Force to develop an affirmative action hiring plan within four weeks.

Tuesday - September 23, 1986 - 4:00 p.m.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Mary Lloyd Frank; Councilmen Wilhelmina Bratton, Walter R. Boland; Kenneth M. Michalove, Norma T. Price, and George M. Tisdale; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Deputy City Clerk Carol Hensley.

Absent: Associate Manager/City Clerk William F. Wolcott, Jr.

INVOCATION

The invocation was given by Mayor Louis Bissette.

APPROVAL OF THE MINUTES - SEPTEMBER 9, 1986 MEETING

1. Consideration was given to the approval of the minutes of the September 9, 1986, meeting.

Councilman Michalove requested that the minutes be amended to substitute the following paragraph in lieu of the paragraph regarding his statement relative to the scheduling of a public hearing for the proposed Chestnut-Liberty Street Historic District;

REQUESTED SUBSTITUTED PARAGRAPH - SEPTEMBER 9, 1986
City Council Minutes

"Councilman Michalove, using a map prepared by the Historic Resources Commission, explained that it was his understanding that controlling design review could be done in two ways - an historic overlay and a redevelopment/renewal plan. He expressed concern that this area was not being properly planned for and needed to be looked at in terms of overall zoning and a redevelopment plan bordering Merrimon, Murdock, Charlotte Street and I-240. He said that the proposed historic district was too large and did not follow logical lines and if an historic district were done, he would prefer seeing a smaller district at this time, say including the Jefferson Apts. on Chestnut to Liberty St., east along the back property lines of the property fronting the north side of Chestnut to Washington St., north to Hillside then south on Liberty back to Chestnut. He explained that to create a large Historic District at this time, without an overall plan would be a disservice to the area because once the area was designated historic it would be difficult to reduce the size, whereas, starting small and building the size, if appropriate, would be a more logical approach. He also said that Historic houses of real significance could be moved to an historic district in another location."

Mayor Bissette announced the approval of the minutes of the September 9, 1986 meeting as amended.

APPROVAL OF THE MINUTES - SEPTEMBER 16, 1986 MEETING

1B. Consideration was given to the approval of the minutes of the September 16, 1986 meeting.

economic development. He said this resolution would authorize the City Manager to submit a grant application to the Appalachian Regional Commission in the amount of $205,000.00. He said the Champion Sewer/Siphon project totals $350,000.00. He said the additional funding would come from the CDBG funds or other sources, and would allow expansion of the Champion Finishing Company and would increase their work force.

Upon motion of Councilman Price, seconded by Vice-Mayor Frank, Resolution No. 86-183 was unanimously adopted.

Complete text of Resolution No. 86-183 will be found in Resolution Book No. 16 at page 158.

MOTION AUTHORIZING CITY ATTORNEY TO SIGN DOCUMENTS RELATIVE TO CLOSING OF PACK PLAZA PROJECT

8. At the request of the City Manager, Councilman Michalove moved to authorize the City Attorney to sign closing documents relative to the Pack Plaza project. This motion was seconded by Councilman Boland and carried unanimously.

RESOLUTION NO. 86-184 - RESOLUTION APPROVING CAPITAL IMPROVEMENTS AT THE ASHEVILLE REGIONAL AIRPORT

9. Consideration was given to a resolution approving capital improvements at the Asheville Regional Airport.

The City Manager said the lease agreement between the City of Asheville and the Asheville Regional Airport Authority requires that the Asheville Regional Airport Authority obtain written approval from the City before any capital improvements are made at the airport. He said capital improvements at the airport are planned for renovations and additions to the terminal building's ticket lobby, baggage claim and rental car areas and the construction of an entrance roadway and fencing runway rehabilitation. He said this resolution would approve the capital improvements requested.

Upon motion of Councilman Price, seconded by Councilman Tisdale, Resolution No. 86-184 was unanimously adopted.

Complete text of Resolution No. 86-184 will be found in Resolution No. 16 at page 159.

CITY COUNCIL MEETING OF SEPTEMBER 30, 1986 - TO BE HELD IN ASHEVILLE CIVIC CENTER BANQUET ROOM

10. Mayor Bissette announced that the City Council meeting scheduled for September 30, 1986, will be held in the Asheville Civic Center Banquet Room instead of the Asheville City Council Chambers due to the large number of participants expected relative to the Chestnut-Liberty Street Historic designation.

* See amendment page 254 under approval of minutes.

RALPH BISHOP - COMMENTS RELATIVE TO OBTAINING CITY RECORDS - LOTTERY SALES

11. Ralph Bishop again spoke to members of Council relative to his right to obtain public records regarding the Policemen's Pension and Disability Fund. He also spoke relative to lottery sales in the City of Asheville.

ORDINANCE NO. 1610 - BUDGET ORDINANCE AMENDMENT TO PROVIDE FUNDS TO ACQUIRE REPLACEMENT ENGINES FOR BUSES

5. Consideration was given to a budget ordinance amendment to provide funds to acquire replacement engines for buses.

The City Manager said the staff from the Asheville Transit Authority inspected bus engines the transit system could use for its bus operation. He said the transit staff and the management company feel that the investment by the City of Asheville for engines would be beneficial. It is recommended that the City purchase eleven engines from Mr. Ronald C. Ivey, Ivey's Equipment Company, from Stark, Florida, in the amount of $9,000.00.

Councilman Tisdale noted that the Asheville Transit Authority is in agreement with this purchase and he commended the transit authority staff for looking into and inspecting the bus engines to be purchased.

Councilman Price moved for the adoption of Ordinance No. 1610. This motion was seconded by Councilman Tisdale.

On a roll call vote of 7-0, Ordinance No. 1610 passed on first and final reading.

Complete text of Ordinance No. 1610 will be found in Ordinance No. 11 at page 67.

RESOLUTION NO. 86-182 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE ON BEHALF OF THE CITY OF ASHEVILLE AN AGREEMENT BY AND BETWEEN THE CITY AND W. H. ARTHUR COMPANY FOR REROOFING OF HUNT HILL FACILITY

6. Consideration was given to a resolution authorizing the City Manager to execute on behalf of the City of Asheville an agreement by and between the City and W. H. Arthur Company for reroofing of Hunt Hill facility.

The City Manager said the existing roof on the Hunt Hill facility has deteriorated and requires replacing. He said specifications for the reroofing have been prepared and bids have been received. He said the City staff has recommended the contract for the work be awarded to W.H. Arthur Company in the amount of $9,950.00.

Upon motion of Councilman Boland, seconded by Vice-Mayor Frank, Resolution No. 86-182 was unanimously adopted.

Complete text of Resolution No. 86-182 will be found in Resolution Book No. 16 at page 157.

RESOLUTION NO. 86-183 - RESOLUTION AUTHORIZING APPLICATION FOR APPALACHIAN REGIONAL COMMISSION FUNDS FOR THE CHAMPION SEWER/SIPHON PROJECT

7. Consideration was given to a resolution authorizing application for Appalachian Regional Commission funds for the Champion Sewer/Siphon Project.

The City Manager said the City deems it necessary to make certain sewer improvements for the Bingham Road area to promote private reinvestment. He said the Appalachian Regional Commission is accepting applications for grants to construct public works improvements which are designated to promote

Tuesday - September 30, 1986 - 4:00 p.m.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Mary Lloyd Frank; Councilmen Wilhelmina Bratton, Walter R. Boland; Kenneth M. Michalove, Norma T. Price, and George M. Tisdale; Corporation Counsel William F. Slawter; Associate City Manager William F. Wolcott, Jr.; Deputy City Clerk Carol Hensley.

Absent: City Manager Douglas O. Bean

INVOCATION

Councilman Boland led the audience in a moment of silence in memoriam of Asheville Police Office Carl Eugene Edwards who passed away on Saturday, September 27, 1986. The invocation was given by Councilman Walter Boland.

APPROVAL OF THE MINUTES - SEPTEMBER 23, 1986 MEETING

1. Consideration was given to the approval of the minutes of the September 23, 1986 meeting.

Mayor Bissette noted that one amendment would be made to the minutes of the September 23, 1986 meeting relating to the discussion, at the end of the meeting, relative to the location of the September 30, 1986 meeting. He said the amendment would include a note at the end of the meeting stating that Councilman Tisdale and Councilman Boland did not hear the discussion relative to moving the Council meeting to the Civic Center Banquet Room on September 30, 1986.

PROCLAMATION - SEPTEMBER 29 - OCTOBER 3, 1986 - "MINORITY ENTERPRISE DEVELOPMENT WEEK"

2. Mayor Bissette read a proclamation proclaiming September 29 - October 3, 1986 as "Minority Enterprise Development Week".

Mayor Bissette presented the proclamation to Don Schronce with the Asheville Business Development Center.

RESOLUTION NO. 86-185 - RESOLUTION OF APPRECIATION TO HOBERT J. LEDFORD

3. Consideration was given to a resolution of appreciation to Hobert J. Ledford.

Mayor Bissette read the resolution stating that Hobert J. Ledford has faithfully served the City of Asheville since 1972. He has requested retirement from his present post as Laborer effective September 1, 1986.

Upon motion of Councilman Michalove, seconded by Councilman Boland, Resolution No. 86-185 was unanimously adopted.

Complete text of Resolution No. 86-185 will be found in Resolution Book No. 16 at page 160.

Mayor Bissette presented the resolution to Hobert J. Ledford.

ADJOURNMENT

Upon motion of Councilman Tisdale, seconded by Vice-Mayor Frank, the meeting adjourned at 4:50 p.m.

MAYOR

CITY CLERK

for the Asheville Art Museum, the Health Adventure, and the Colburn Mineral Museum. The approval of the $3,000,000 Bond Issue opens the way for this important project.

There is no plan at this time for the specific allocation of the bond funds in the project. The City Council, however, wants to publicly reaffirm its commitment to the YMI Cultural Center as an integral part of the Pack Place Center. Simply stated, the City's bonds shall not be issued unless and until the additional funds are raised and the total project, including the YMI Cultural Center is approved by the City.

I hope this letter sufficiently addresses your concerns.

Very truly yours,

ASHEVILLE CITY COUNCIL

Louis Bissette
Mayor

LB/jr

Wanda Henry-Coleman and Al Whitesides, President of the YMI Cultural Board, thanked members of Council and reaffirmed their commitment that the YMI Cultural Center is an integral part of the Pack Place Project.

Upon motion of Vice-Mayor Frank, seconded by Councilman Price, Resolution No. 86-187 was unanimously adopted.

Councilman Price moved that the Mayor be authorized to forward the letter referred to the YMI Cultural Center and that the letter be attached as a part of the minutes. This motion was seconded by Councilman Boland and carried unanimously.

PUBLIC HEARING - ORDINANCE AMENDING CHAPTER 30 OF THE CODE OF ORDINANCES ESTABLISHING THE CHESTNUT-LIBERTY STREET AREA AS LOCAL HISTORIC DISTRICT

ORDINANCE NO. 1611 - AN ORDINANCE ESTABLISHING THE CHESTNUT-LIBERTY STREET HISTORIC DISTRICT

6. A public hearing was held relative to the adoption of an ordinance amending Chapter 30 of the Code of Ordinances of the City of Asheville to create the Chestnut-Liberty Street area as a local historic district.

Mayor Bissette said this ordinance would designate the Chestnut-Liberty Street neighborhood as a local historic district. Certificates of Appropriateness would be required by a property owner before any exterior rehabilitation or new construction can take place. At the August 12, 1986 meeting, a public hearing was held to consider a proposal by the Historic Resources Commission; however, this matter was remanded to the Historic Resources Commission to reconsider alternate plans that include a smaller area and different boundaries. The Historic Resources Commission has now presented Council with a revised proposal.

Mayor Bissette opened the public hearing at 4:30 p.m.

The Deputy City Clerk presented the notice to the public setting the time and date of the public hearing and the affidavit of publication.

RESOLUTION NO. 86-186 - RESOLUTION IN MEMORIAM OF CHARLES C. HARDING

4. Consideration was given to a resolution in memoriam of Charles C. Harding.

Mayor Bissette read the resolution stating that Charles C. Harding was a dedicated employee with the City of Asheville over his 20 year career until his untimely death on September 20, 1986.

Upon motion of Vice-Mayor Frank, seconded by Councilman Price, Resolution No. 86-186 was unanimously adopted.

Complete text of Resolution No. 86-186 will be found in Resolution Book No. 16 at page 161.

RESOLUTION NO. 86-187 - RESOLUTION DECLARING THE RESULT OF THE SPECIAL BOND REFERENDUM HELD IN THE CITY OF ASHEVILLE ON SEPTEMBER 23, 1986 UPON THE QUESTION OF APPROVING THE $3,000,000 EDUCATION, ARTS AND SCIENCE CENTER BONDS AND $17,000,000 STREET AND SIDEWALK BONDS

5. Consideration was given to a resolution declaring the result of the Special Bond Referendum held in the City of Asheville on September 23, 1986 upon the questions of approving $3,000,000 Education, Arts and Science Center Bonds and $17,000,000 Street and Sidewalk Bonds.

Mayor Bissette said this resolution will declare the results of the referenda as reported by the Buncombe County Board of Elections. Approval of the voters permits issuance of $17 million in bonds for streets and sidewalks and $3 million in bonds for the Pack Place Education, Arts and Science Center.

Mayor Bissette said he had had recent discussions with Wanda Coleman and Al Whitesides with the YMI Cultural Center relative to some misconceptions and in community relative to the YMI Cultural Center as it relates to the recent bond issue. He requested permission from the Council members to forward the following letter to Wanda Coleman with the YMI Cultural Center.

September 30, 1986

Wanda Henry Coleman
YMI Cultural Center
Market & Eagle Street
Asheville, NC

RE: YMI Cultural Center - Pack Place Center

Dear Wanda:

A question has arisen concerning the $3 million bond issue which was approved by Asheville voters on September 23, 1986.

These bond proceeds will represent the City's participation in the $7,600,000 proposed Pack Place Center. The additional $4,600,000 in matching funds will be raised from corporations, individuals, foundations and other public sources. This educational and cultural endeavor includes $500,000 for the completion of the YMI Cultural Center. Pack Place will also become the new home

Mike Robinson, 75 Botany Drive, resident at 179 S. Liberty St.
June Grant, with Grant Realty
Gordon Jewell, 50 E. Chestnut St.
Judge Frank Parker, co-owner of 95 Charlotte St.
Don Nockley
Ralph Bishop
Mr. Batts, 15 Clayton St.
John Hall, 47 Orange St.
Walter Batts, 104 N. Liberty St.
Bill Stamey, Clayton St.
Helen McDarris, Merrimon Avenue

Mayor Bissette closed the public hearing at 7:22 p.m. and Council went into a five minute recess.

Mayor Bissette said the ordinance designating the Chestnut-Liberty area as a historic district was previously presented to members of Council and would not be read in its entirety unless there was a specific request to do so.

Councilman Price moved for the adoption of Ordinance No. 1611. This motion was seconded by Vice-Mayor Frank.

Councilman Michalove said his cousin is the owner of property on Chestnut St. and he asked the City Attorney if he would have a conflict in voting on this issue.

The Corporation Counsel said, in his opinion, Councilman Michalove does not have a conflict of interest.

Councilman Bratton said property owners have the option of pursuing historic designations for their buildings without an entire district being designated and that as a property owner herself, she has a problem with having to ask someone else what she can do with her property.

Mayor Bissette said, in his opinion, he felt a historic district could work but he also feels that it takes the support of the majority of the people in the district. He said he is not convinced the support is in the area to make it work so on this reading he would vote no.

Councilman Michalove said he felt the area is too large, that the boundaries are not logical, that the overall zoning issue should be studied before a district is created and that the success of the Montford Historic District designation should be studied before another area is designated.

Councilman Boland said he felt the designation would be beneficial to the area and to the City because of the importance of the historic preservation.

Vice-Mayor Frank said at times government needs to control an area.

On a roll call vote of 4-3, Ordinance No. 1611 passed on first reading with Mayor Bissette, Councilman Michalove, and Councilman Bratton voting "no" and Vice-Mayor Frank, Councilman Boland, Councilman Tisdale, and Councilman Price voting "yes".

Councilman Tisdale asked members of Council if they felt the second reading of Ordinance No. 1611 should be held in the City Council Chambers or the Civic Center Banquet Room.

Carolyn Humphries, Executive Director of the Historic Resources Commission, presented members of Council with a map showing the proposed boundaries of the Chestnut-Liberty Street areas to be designated as a local historic district.

Mayor Bissette requested that the public hold their comments to three minutes or less unless they are representing a group.

The following individuals spoke in support of creating a historic district in the Chestnut-Liberty Street area stating that the City of Asheville needs to recognize the importance of our heritage and its structures to future generations. The historic designation will not affect property use and statistics from other cities show that property values rise dramatically when historic districts are created:

Pam Warner, 87 N. Liberty St.
Betty Lawrence, 142 E. Chestnut St.
Valerie Clemmer, 89 N. Liberty St.
Marilyn Gephardt, 81 N. Liberty St.
Patsy Warner, 53 Orange St.
Evelyn Wyatt, of Pearson Drive
Robert Dungen, 89 N. Liberty St.
Edward B. Crause
Marvin P. Pope
Gwen Dean, teacher at Claxton and a group of her students
Jim Cairnes, Pearson Drive
Tom Steitler, Chairman of the Historic Resources Commission
Doug Swaim
Boyce Meece
Margaret Bridget, 173 E. Chestnut St.
Bea Hendricks, 165 E. Chestnut St.
A resident of 160 E. Chestnut St.
Jean Warner, 87 N. Liberty St.
Mrs. Hill, 73 Merrimon Avenue
Barbara Molloy, 107 Edwin Place a member of the Historic Resources Commission

The following individuals spoke in opposition to the designation of Chestnut-Liberty Street area as a historic district stating that the proposal would add another level of government control that would deny property rights and personal freedom:

Ralph B. Adams, 75 Madison Avenue
Bill Duckworth, Manager of property on Charlotte St.
Mrs. Haggar, 111 E. Chestnut St.
Ann Cross, Orange St.
Mr. & Mrs. Burgin, 143 Merrimon Avenue
Mr. & Mrs. Green, 141 Merrimon Avenue
John Sorrells, E. Chestnut St.
W. A. McEldruff, 212 E. Chestnut St.
Paul Jones, President of the Asheville Board of Realtors also read a resolution of the Board in opposition to the designation
Dorothy Arrowood, 126 Vance Crescent
John Carroll, 85 Tunnel Road and owner of property at 50 Orange St.

Mayor Bissette said the Asheville Planning and Zoning Commission at a meeting held August 6, 1986, reviewed and recommended that the property known as the Holiday Inn-East which was annexed into the City of Asheville on July 22, 1986, be zoned CH Commercial Highway District.

The Deputy City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

There being no further discussion, Mayor Bissette closed the public hearing at 7:58 p.m.

Mayor Bissette said the ordinance was previously presented to members of Council and would not be read in its entirety unless there was a specific request to do so.

Councilman Bratton moved for the adoption of Ordinance No. 1612. This motion was seconded by Councilman Boland.

On a roll call vote of 7-0, Ordinance No. 1612 passed on first reading.

Councilman Michalove moved to suspend the rules and proceed to the second reading of Ordinance No. 1612. This motion was seconded by Councilman Bratton and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1612 passed on second reading.

Councilman Michalove moved to suspend the rules and proceed to the third reading of Ordinance No. 1612. This motion was seconded by Councilman Bratton and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1612 passed on third and final reading.

Complete text of Ordinance No. 1612 will be found in Ordinance No. 11 at page 79-80.

PUBLIC HEARING - SITE PLAN OF PHASE II OF PINECLIFF CONDOMINIUMS LOCATED ON STATE ROAD 2243

9. A public hearing was held relative to a site plan of Phase II of Pinecliff Condominiums located on State Road 2243.

Mayor Bissette said the Asheville Planning and Zoning Commission at a meeting held August 6, 1986, reviewed a site plan of Phase II of Pinecliff Condominiums located on State Road 2243. The plan was prepared by Traher Associates, Architect, for Piney Mountain Associates, Inc., Developer, and submitted in accordance with the Group Development section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of the project subject to: granting water line easement in favor of the City of Asheville or moving 16" line, and compliance with the Erosion Control Ordinance.

Mayor Bissette opened the public hearing at 8:00 p.m.

The Deputy City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Mayor Bissette said the second reading of Ordinance No. 1611 will be calendared for October 7, 1986 in the City Council Chambers.

PUBLIC HEARING - SITE PLAN OF THE PROPOSED BI-LO SHOPPING CENTER - HENDERSONVILLE ROAD

7. A public hearing was held relative to the site plan of the proposed Bi-Lo Shopping Center to be located on Hendersonville Road.

Mayor Bissette said the Asheville Planning and Zoning Commission at a meeting held August 27, 1986, reviewed the site plan of a proposed Bi-Lo Shopping Center to be located on Hendersonville Road. The plan was prepared by Gray Engineering Consultants, Inc., Greenville, South Carolina for the Sofran Company, Atlanta, Georgia, Developer, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of the project, and signage, subject to 1) compliance with the Erosion Control Ordinance; 2) approval of curb cut by NCDOT; 3) location of trash compacter to southern side of building; 4) recommend that buffering conditions around the dumpster be met by fencing; and 5) buffer with trees on the east side.

Mayor Bissette opened the public hearing at 7:51 p.m.

The Deputy City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick reiterated Mayor Bissette's statement that the Planning and Zoning Commission had recommended approval of the project subject to several conditions. He said the plan is designed to meet all off-street parking requirements even with the proposed widening of Hendersonville Road. After discussion, the developer said he would be willing to dedicate right-of-way to the North Carolina Department of Transportation for widening of Hendersonville Road.

Mayor Bissette closed the public hearing at 7:56 p.m.

Councilman Michalove moved to approve the site plan of the proposed Bi-Lo Shopping Center to be located on Hendersonville Road subject to the conditions outlined by the Planning and Zoning Commission and further that the developer dedicate to the North Carolina Department of Transportation property for right-of-way. This motion was seconded by Councilman Tisdale and carried unanimously.

PUBLIC HEARING - ZONING PROPERTY KNOWN AS THE HOLIDAY INN-EAST LOCATED ON U.S. 70

ORDINANCE NO. 1612 - AN ORDINANCE AMENDING ORDINANCE NO. 322 KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE" AS AMENDED - PROPERTY KNOWN AS THE HOLIDAY INN-EAST LOCATED ON U.S. 70

8. A public hearing was held relative to an ordinance amending Ordinance No. 322, known as "an ordinance providing for the zoning of the City of Asheville" as amended - property known as the Holiday Inn-East located on U.S. 70.

Mayor Bissette opened the public hearing at 7:00 p.m.

RESOLUTION NO. 86-189 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE, ON BEHALF OF THE CITY, A CONTRACT BETWEEN THE CITY OF ASHEVILLE AND R & W, INC. OF ASHEVILLE, NORTH CAROLINA FOR THE INSTALLATION OF A BOILER IN THE MUNICIPAL BUILDING

12. Consideration was given to a resolution authorizing the City Manager to execute, on behalf of the City, a contract between the City of Asheville and R & W, Inc. of Asheville, North Carolina for the installation of a boiler in the Municipal Building.

The Associate City Manager said the present heating system for the Municipal Building is not adequate to heat the building. He said Wood & Cort, Inc., Architects are employed by the City to develop specifications for the installation of a boiler in the Municipal Building. He said the low bid for the successful completion of the boiler in the Municipal Building is R & W, Inc. of Asheville, North Carolina in the amount $25,600.00. He said this resolution will authorize the City Manager to execute agreements and any amendments to the agreements within the budgeted amount by and between the City of Asheville and R & W, Inc. for the installation of a boiler in the Municipal Building.

Upon motion of Councilman Michalove, seconded by Councilman Boland, Resolution No. 86-189 was unanimously adopted.

Complete text of Resolution No. 86-189 will be found in Resolution Book No. 16 at page 167.

RESOLUTION NO. 86-190 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE, ON BEHALF OF THE CITY OF ASHEVILLE, A FEDERAL AVIATION GRANT AGREEMENT, PROJECT NO. 3-37-0005-07

13. Consideration was given to a resolution authorizing the Mayor to execute, on behalf of the City of Asheville, a Federal Aviation Grant Agreement, Project No. 3-37-0005-7.

The Associate City Manager said the Federal Aviation Administration has offered a grant agreement to the Asheville Regional Authority in the amount of $2,333,967.00. He said the City of Asheville and the County of Buncombe are co-sponsors of the grant agreement and the FAA requires each sponsor to execute said grant agreement. He said the project consists of relocating terminal access road; overlay and groove runway 16/34; install and relocate perimeter fencing with gate; rehabilitate portion of parallel taxiway; expand and rennovate terminal building; and land acquisition for airport development.

Upon motion of Councilman Boland, seconded by Councilman Bratton, Resolution No. 86-190 was unanimously adopted.

Complete text of Resolution No. 86-190 will be found in Resolution Book No. 16 at page 168.

Verl Emrick said the project would consist of a total of 72 units. He said the problem with the sewer line has been resolved by private easement negotiation by the developer with adjoining property owners.

A discussion was held relative to a water line easement for the proposed project.

After discussion, Mayor Bissette closed the public hearing at 8:22 p.m.

Councilman Michalove moved to approve the site plan of Phase II of Pinecliff Condominiums located on State Road 2243 subject to the Planning and Zoning Commission's recommendations and further that a mutually satisfactory agreement be developed between the City of Asheville and the property owner and that members of Council review the easement as soon as possible. This motion was seconded by Councilman Boland and carried unanimously.

SCHEDULE PUBLIC HEARING - AMENDING ORDINANCE NO. 322 - ZONING ORDINANCE OF THE CITY OF ASHEVILLE FOR OCTOBER 14, 1986 REGARDING MOUNTAIN/SLOPE STANDARDS

10. Councilman Price moved to schedule a public hearing relative to an ordinance amending Ordinance No. 322 known as an ordinance providing for the zoning of the City of Asheville as amended for October 14, 1986 at the Asheville Civic Center Banquet Room regarding Mountain/Slope Standards. This motion was seconded by Councilman Boland and carried unanimously.

RESOLUTION 86-188 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE ON BEHALF OF THE CITY, A CONTRACT BETWEEN THE CITY OF ASHEVILLE AND MOSER, INC. OF ASHEVILLE, NORTH CAROLINA FOR THE INSTALLATION OF A BOILER IN THE CITY HALL BUILDING

11. Consideration was given to a resolution authorizing the City Manager to execute on behalf of the City, a contract between the City of Asheville and Moser, Inc. of Asheville, North Carolina for the installation of a boiler in the City Hall Building.

The Associate City Manager said the present heating system for the City Hall Building is not adequate to heat the building. He said Wood & Cort, PA, Architects were employed by the City of Asheville, to develop specifications for the installation of a boiler in the City Hall Building. He said the low bid for the successful completion of the installation of a boiler in the City Hall Building is Moser, Inc. in the amount of $22,732.00. He said this resolution would authorize the City Manager to execute the agreements and any amendments to the agreements within the budgeted amount by and between the City of Asheville and Moser, Inc. for the installation of a boiler in the City Hall Building.

Upon motion of Councilman Michalove, seconded by Councilman Boland, Resolution No. 86-188 was unanimously adopted.

Complete text of Resolution No. 86-188 will be found in Resolution Book No. 16 at page 166.

Tuesday - October 7, 1986 - 4:00 p.m.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Mary Lloyd Frank; Councilmen Wilhelmina Bratton, Walter R. Boland; Kenneth M. Michalove, Norma T. Price, and George M. Tisdale; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: None

INVOCATION

Councilman Tisdale led the audience in the Pledge of Allegiance and gave the invocation.

APPROVAL OF THE MINUTES - SEPTEMBER 30, 1986 MEETING

1. Consideration was given to the approval of the minutes of the September 30, 1986, meeting.

Councilman Boland requested that the minutes be amended to substitute the following paragraph in lieu of the paragraph regarding his statement relative to the second reading of the proposed Chestnut-Liberty Street Historic District: "Councilman Boland said the majority of Asheville's citizens support historic districts. He said this is reflected in responses to Alternatives for Asheville questionnaires and also in the proposed districts for Biltmore Village and the downtown area. He said the designation of a historic district is also a useful tool to limit the urban sprawl from the central business district. He said it has been determined that a historic district will raise property values. He suggested that a forum be established to work out the active promotion of marketing of such areas".

Mayor Bissette announced the approval of the minutes of the September 30, 1986 meeting, as amended.

PROCLAMATION - "EMPLOY THE HANDICAPPED WEEK" - OCTOBER 5-11, 1986

2. Mayor Bissette read a proclamation proclaiming October 5-11, 1986 as "Employ the Handicapped Week".

Mayor Bissette presented the proclamation to Sally Monroe with Handi-Skills.

RECOGNITION OF BOY SCOUTS

3. Mayor Bissette recognized several boy scouts in the audience.

RESOLUTION NO. 86-191 - RESOLUTION AUTHORIZING VICE-MAYOR TO EXECUTE AN AGREEMENT BY AND BETWEEN THE CITY OF ASHEVILLE AND ANA ENTERPRISES FOR THE RELOCATION OF A SEWER LINE AND GRANTING OF EASEMENTS ON PROPERTY LOCATED AT 660 MERRIMON AVENUE

14. Consideration was given to a resolution authorizing Vice-Mayor to execute an agreement by and between the City of Asheville and ANA Enterprises for the relocation of a sewer line and granting of easements on property located at 660 Merrimon Avenue.

The Associate City Manager presented the resolution stating that the location of the new building on 660 Merrimon Avenue requires the relocation of an existing sewer line on the southwestern portion of said property. He said the City is interested in acquiring a recorded easement from the property owner for additional right-of-way for a public street or sidewalk along the eastern boundary of the property. He said this resolution will authorize the Vice-Mayor to execute an agreement or lease, by and between the City of Asheville, and ANA Enterprises for relocation of a sewer line and granting of easements for property located at 660 Merrimon Avenue.

Mayor Bissette requested that he be excused from participation and vote on the resolution due to his firm representing ANA Enterprises.

Councilman Price moved to excuse Mayor Bissette from voting on Resolution 86-191. This motion was seconded by Vice-Mayor Frank and carried unanimously.

Upon motion of Councilman Michalove, seconded by Councilman Boland, Resolution No. 86-191 was unanimously adopted.

Complete text of Resolution No. 86-191 will be found in Resolution Book No. 16 at page 169.

CLAIMS - WRIGHT'S CARPET (WATER) - HAZEL GRANT (WATER) - INGRID GORDOS (STREETS)

The Associate City Manager presented claims received from Wright's Carpet, Hazel Grant, and Ingrid Gordos.

Mayor Bissette referred the claims to the Corporation Counsel for investigation and recommendation.

ADJOURNMENT

Upon motion of Councilman Tisdale, seconded by Councilman Boland, the meeting adjourned at 8:30 p.m.

MAYOR

CITY CLERK

RESOLUTION NO. 86-193 - RESOLUTION COMMENDING PARTICIPANTS IN THE ANNUAL RED CROSS BLOOD DRIVE

7. Consideration was given to a resolution commending participants in the Annual Red Cross Blood Drive.

Mayor Bissette said the City of Asheville, in conjunction with the Asheville Area American Red Cross, conducted an annual Blood Drive on Wednesday, August 27, 1986, at the Main Fire Department Headquarters. Eighty-five pints of blood were donoted by City employees. The Department of Public Works donated thirty-eight (38) pints and the Division of Water and Sewer Maintenance donated sixteen (16) pints.

Mayor Bissette recognized several City employees who had donated a substantial amount of blood to the Red Cross.

Upon motion of Vice-Mayor Frank, seconded by Council Tisdale, Resolution No. 86-193 was unanimously adopted.

Complete text of Resolution No. 86-193 will be found in Resolution Book No. 16 at Page 171.

ORDINANCE NO. 1611 - AN ORDINANCE AMENDING CHAPTER 30 OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE TO CREATE THE CHESTNUT-LIBERTY STREET AREA AS LOCAL HISTORIC DISTRICT

8. Consideration was given to the second reading of Ordinance No. 1611, an ordinance amending Chapter 30 of the Code of Ordinances of the City of Asheville to create the Chestnut-Liberty Street Area as local historic District.

Mayor Bissette said this ordinance would designate the Chestnut-Liberty Street neighborhood as local historic district. Certificates of Appropriateness would be required by a property owner before any exterior rehabilitation or new construction can take place. At the August 12, 1986 meeting, a public hearing was held to consider a proposal by the Historic Resources Commission; however, this matter was remanded to the Historic Resources Commission to reconsider alternate plans that include a smaller area and different boundaries. The Historic Resources Commission has now presented Council with a revised proposal. This ordinance passed first reading at the September 30, 1986 meeting.

Mayor Bissette said this ordinance was previously read on first reading and would not be reread in its entirety unless there was a specific request to do so.

Ralph Bishop requested that the ordinance be read in its entirety.

Mayor Bissette and members of Council read the proposed ordinance in its entirety.

James Smith, of 90 North Liberty Street, showed a video of the Chestnut-Liberty Street area. He also spoke in opposition to the designation of the Chestnut-Liberty Street area as a local historic district.

PROCLAMATION - OCTOBER, 1986 - "NATIONAL LUPUS AWARENESS MONTH"

4. Mayor Bissette read a proclamation proclaiming October, 1986, as "National Lupus Awareness Month".

Mayor Bissette presented the proclamation to Robert and Mary Proctor.

REPORT RELATIVE TO MARKETING SURVEY - BELE CHERE 1986

5. Jim Daniels, Chairman of Bele Chere 1986, and Jerry Grant, Festival Chairman, said they felt Bele Chere 1986 was a success. Mr. Grant said Pro Gen Research of Greenville, South Carolina, conducted an independent demographic and economic impact survey during the festival. He said approximately $11.5 million was spent in Asheville during the festival at restaurants, hotels, gift shops, retail outlets, gas stations, and other businesses, in addition to the money spent at the festival itself. He said he felt the $11.5 million was a conservative figure. He said it was determined that 200,000 people attended the Bele Chere 1986 Festival. He said vendor revenues from Bele Chere totalled $176,636.00, and the City's 20% commission totalled $35,327.00. He said the survey, based on a sampling of 829 people who went to the festival, including responses from 640 residents who live in Western North Carolina areas, and 189 non-residents from 22 states. He said the survey showed the average person at Bele Chere spent $31.27 on souvenirs; $96.40 on lodging for those who obtained lodging; $23.64 on food; and $13.58 on gasoline. He said the average total expenditure was $54.46 for area residents, and $146.06 for non-residents. He said of the area residents surveyed, 94.4% said they will attend the festival next year, while 83.6% of the non-residents said they will return for Bele Chere 1987. He said the figures are above what was projected for Bele Chere 1986. He said he felt the survey should be used in a positive way to plan other festival events.

Jim Daniels thanked the 600 volunteers who worked for Bele Chere 1986, and for the City of Asheville's support.

Mayor Bissette thanked Jim Daniels, Jerry Grant, the Bele Chere Board, and Leslie Anderson for their efforts in making Bele Chere 1986 a success.

RESOLUTION NO. 86-192 - RESOLUTION IN MEMORIAM OF CARL EUGENE EDWARDS

6. Consideration was given to a resolution in memoriam of Carl Eugene Edwards.

Mayor Bissette said Carl Eugene Edwards was a dedicated employee with the City of Asheville over his 30 year career until his untimely death on September 28, 1986.

Upon motion of Councilman Tisdale, seconded by Councilman Michalove, Resolution No. 86-192 was unanimously adopted.

Complete text of Resolution No. 86-192 will be found in Resolution Book No. 16 at Page 170.

Councilman Michalove said he felt an additional cost would be involved in the Historic Resources Commission budget if the proposed ordinance is approved. He said Council had only approved the Historic Resources budget through October. He said he would agree to postpone action on the ordinance until a survey of the Montford Historic District is completed, and a decision as to funding for the Historic Resources Commission is made.

On a roll call vote of 4-3, Ordinance No. 1611 passed on second reading, with Councilman Boland, Councilman Tisdale, Councilman Price, and Vice-Mayor Frank voting "Aye", and Mayor Bissette, Councilman Michalove, and Councilman Bratton voting "no".

CHANGE IN MEETING LOCATION FOR MEETING SCHEDULED OCTOBER 14, 1986

9. Mayor Bissette noted that the regular scheduled City Council meeting for October 14, 1986, will be held in the Asheville Civic Center Banquet Room.

SALE OF DISPOSAL PARCELS 35, AND 126 - EAST RIVERSIDE RENEWAL PROJECT AND THE EAST END/VALLEY STREET COMMUNITY IMPROVEMENT PROJECT

10. Consideration was given to a motion approving the sale of disposal parcels 35 and 126 in the East Riverside Renewal Project and the East End/Valley Street Community Improvement Project.

Mayor Bissette said the Housing Authority has tentatively accepted the following bids for certain disposal parcels in the East Riverside Renewal Project and the East End/Valley Street Community Improvement Project.

Parcel	Resue	Price	Bid	Redeveloper
35	Residential	$300.00	$300.00	Joyce Neal
126	Residential	900.00	900.00	Varick Chapel Church

Disposal Parcel 35 is located in the East End/Valley Street Project. The developer is proposing to improve the accessibility and frontage to the adjacent property on Martin Lutuer King Blvd. The improvements will consist of fencing and grass. No construction is anticipated.

Disposal Parcel 126 is located in the East Riverside Project on the corner of South French Broad Avenue and Bartlett Street. The developer proposes a parking lot for the church to eliminate on-street parking. No construction is anticipated.

Councilman Michalove moved to approve the sale of disposal parcels 35 and 126 in the East Riverside Renewal Project and the East End/Valley Street Community Improvement Project as recommended by the Housing Authority of the City of Asheville. This motion was seconded by Councilman Tisdale and carried unanimously.

Ann Cross, Orange Street, spoke in opposition to the proposed designation, and requested that her property be excluded from the historic district.

Judge Frank Parker, co-owner of property located at 95 Charlotte Street spoke in opposition to the proposed designation, and presented statistics showing that a substantial number of actual owners and residents in the area opposed the designation.

Paul Jones, President of the Asheville Board of Realtors, and resident of Black Mountain, said the Asheville Board of Realtors was approached by the Historic Resources Commission to present facts to the Board relative to the historic designation. He said Tom Stietler with the Historic Resources Commission and June Grant, a resident opposed to the designation, appeared before the Asheville Board of Realtors on October 6, 1986, to present all of the facts involved. He said after hearing the presentations, the Board was still in opposition to the proposed historic district.

Waylon Hampton, of 179 S. Liberty Street spoke in opposition to the proposed historic district, and asked that his property be excluded.

Ralph Bishop spoke in opposition to the ordinance.

Gary Lanning of 109 North Liberty Street spoke in opposition to the historic designation.

Bill Duckworth, Manager of property on Charlotte Street also spoke in opposition to the historic designation, and recommended that Council defer action on this ordinance for at least one or two years until a survey is taken in the Montford Historic District to determine its success. He said he felt like the next request for the Montford area would be for an urban redevelopment area.

Catherine Hunter of 160 East Chestnut Street spoke in support of the ordinance.

Tom Steitler, Chairman of the Historic Resources Commission spoke in support of the ordinance.

Betty Lawrence of 142 Hillside Street spoke in support of the ordinance. She said she did not feel a study or survey is needed in the Montford Historic District. She said the Montford area has proven to be successful as a historic district.

Annette Owenby of 30 East Chestnut Street said she felt there was no comparison with the Montford area and the Chestnut-Liberty area. She spoke in opposition to the proposed designation.

Jean Warner of North Liberty Street, speaking in support of the proposed ordinance, stated that the list of names presented by Judge Frank Parker was not accurate. She said information has been given to residents in the area which has been distorted and is frightening some residents.

Councilman Tisdale, speaking in support of the ordinance, said many commercial businesses have been successful in historic districts.

Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of the project subject to buffering and compliance with the Erosion Control Ordinance.

FISCAL IMPACT: None

D. Consideration of a motion to schedule a public hearing authorizing the issuance of a Certificate of Public Convenience and Necessity to Hilliard L. Wright for October 28, 1986.

HIGHLIGHTS: The City Manager will be authorized to issue a Certificate of Public Convenience and Necessity to Hilliard L. Wright pursuant to Section 27-34 of the Code of Ordinances of the City of Asheville upon proof of financial responsibility in accordance with N. C. Gen. Stat. sec. 20-280.

FISCAL IMPACT: None

Upon motion of Councilman Michalove, seconded by Councilman Tisdale, the Consent Agenda was unanimously approved.

CLAIMS - ROBERT W. LONG (SEWER) - MICHAEL BRADY (STREETS) - HERSCHEL HARRIS (WATER)

12. The City Manager presented claims received from Robert W. Long, Michael Brady and Herschel Harris.

Mayor Bissette referred the claims to the Corporation Counsel for investigation and recommendation.

RALPH BISHOP - LOTTERY SALES IN THE CITY OF ASHEVILLE

13. Ralph Bishop again spoke to members of Council relative to the lottery sales in the City of Asheville.

ADJOURNMENT

Upon motion of Councilman Price, seconded by Councilman Tisdale, the meeting adjourned at 6:50 p.m.

MAYOR

CITY CLERK

APPROVAL OF THE CONSENT AGENDA

11. Consideration was given to a motion approving the Consent Agenda.

Mayor Bissette said the following items are of a routine nature and they have been previously reviewed by the members of the City Council. Therefore, by unanimous vote to approve these items, the City Council may, pursuant to the procedures established in Ordinance No. 1008, adopt all of the items with one motion without the full reading and/or separate motion adopting each individual item. Upon the request of a citizen, a member of the City Council, and/or a member of the City staff, any single item scheduled for approval on the consent agenda may be considered separately.

Resolution No. 86-194

A. Consideration of a resolution authorizing the City Manager to execute an agreement with the Asheville Area Chamber of Commerce for services promoting general industrial growth and growth of the travel and tourism industry.

HIGHLIGHTS: This resolution will authorize the City Manager to execute an agreement between the City of Asheville and the Asheville Area Chamber of Commerce for services promoting tourism.

FISCAL IMPACT: Total Sum - $37,542 - to be paid in quarterly payments.

Resolution Book No. 16 - Page 172.

B. Consideration of a motion to schedule a public hearing to rezone a portion of Lot 192, Sheet 13, Ward 8 from R-2 Residential District to CH Commercial Highway District for October 28, 1986.

HIGHLIGHTS: The Asheville Planning and Zoning Commission at a meeting held September 10, 1986, considered the petition of Attorney John Stevens for Mr. and Mrs. Elmer Frink that a portion of Lot 192, Sheet 13, Ward 8, be rezoned from R-2 Residential District to CH Commercial Highway District. The property is located on Arco Road. After review and discussion, the Commission voted to recommend to City Council that a portion of Lot 192, Sheet 13, Ward 8 to within 50' of Arco Road be rezoned from R-2 Residential District to CH Commercial Highway District.

C. Consideration of a motion to schedule a public hearing relative to a site plan of the proposed Bob Barbour Development to be located at 1616 Patton Avenue for October 28, 1986.

HIGHLIGHTS: The Asheville Planning and Zoning Commission at a meeting held September 10, 1986, reviewed the site plan of the proposed Bob Barbour Development to be located at 1616 Patton Avenue. The plan was prepared by Vaughn & Melton, Engineers, for Bob Barbour, Developer, and submitted in accordance with the Group Development Section of the

PUBLIC HEARING - FINAL PLAT OF THE SCHWAB CONSTRUCTION COMPANY SUBDIVISION - OFF LAKESHORE DRIVE

3. A public hearing was continued relative to the final plat of the Schwab Construction Company Subdivision to be located off Lakeshore Drive.

Mayor Bissette said the Asheville Planning and Zoning Commission at a meeting held June 11, 1986, approved the preliminary plat subject to the developer providing a 16' wide paved drive to all four parcels and recommending that City Council consider placing a caution signal light and signage on each side of the entrance road. The final plat of the Schwab Construction Company Subdivision is to be located off Lakeshore Drive. This plat was prepared by Webb Morgan, R.L.S., for Schwab Construction Company, Developer, and submitted in accordance with Ordinance #424, as amended. This public hearing was continued from the August 26, 1986 meeting. At the September 2, 1986 meeting, this public hearing was continued until the September 9, 1986 meeting. At the September 9, 1986 meeting, the public hearing was continued until September 16, 1986. At the September 16, 1986 meeting, the public hearing was continued until the October 14, 1986 meeting.

Verl Emrick, Director of Planning, said revised plans have been received from the developer for the Schwab Construction Company Subdivision to be located off Lakeshore Drive. He said a 16' right-of-way would be constructed at City standards. He said a turnaround at the end of the road would be provided with a 50' radius. He said the Public Works Department had requested that Council also allow for a 4' right-of-way on each side of the road.

After discussion, Mayor Bissette closed the public hearing at 4:24 p.m.

Councilman Boland moved to approve the final plat of the Schwab Construction Company Subdivision to be located off Lakeshore Drive subject to the recommendations of the Planning and Zoning Commission and further that a 50' radius be provided on a cul-de-sac and a 4' additional right-of-way on each side of the road be dedicated to the City. This motion was seconded by Councilman Tisdale and carried unanimously.

PUBLIC HEARING - AMENDING ORDINANCE NO. 322 - PROVIDING FOR MOUNTAIN/SLOPE STANDARDS

ORDINANCE NO. 1613 - AN ORDINANCE AMENDING ORDINANCE NO. 322, BEING THE ZONING ORDINANCE OF THE CITY OF ASHEVILLE

4. A public hearing was held relative to an ordinance amending Ordinance No. 322, being the Zoning Ordinance of the Code of Ordinances of the City of Asheville (hillsides).

Mayor Bissette said the Asheville Planning and Zoning Commission, at a meeting held September 10, 1986, reviewed and recommended approval of the Mountain/Slope Standards subject to clarification that it only pertains to land over 2,220 feet.

Mayor Bissette opened the public hearing at 4:26 p.m.

The City Clerk presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Tuesday - October 14, 1986 - 4:00 p.m.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Mary Lloyd Frank; Councilmen Wilhelmina Bratton, Walter R. Boland; Kenneth M. Michalove, Norma T. Price, and George M. Tisdale; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: None

INVOCATION

The invocation was given by Councilman Norma Price.

APPROVAL OF THE MINUTES - OCTOBER 7, 1986 MEETING

1. Consideration was given to the approval of the minutes of the October 7, 1986, meeting.

Mayor Bissette announced the approval of the minutes as submitted with one typographical error.

RESOLUTION NO. 86-195 - RESOLUTION AMENDING RULE 23 OF THE RULES AND PROCEDURES OF THE ASHEVILLE CITY COUNCIL

1a. Consideration was given to a resolution amending Rule 23 of the Rules and Regulations of the Asheville City Council by adding the following additional paragraph: "Members of the public requesting a copy of any ordinance under consideration of the City Council shall be provided with a copy of said ordinance without said charge. Requests by members of the public for an ordinance to be read in its entirety in a Council meeting shall only be complied with upon a vote of the majority of Council. The person requesting that the ordinance be read in full shall be provided a copy of the ordinance without charge."

Mayor Bissette said the Council feels that the reading of an ordinance in its entirety is unnecessary and, therefore, this resolution will do away with the provision that ordinances be read in full.

Upon motion of Councilman Bratton, seconded by Councilman Price, Resolution No. 86-195 was unanimously adopted.

Complete text of Resolution No. 86-195 will be found in Resolution Book No. 16 at page 173.

PROCLAMATION - INTERNATIONAL CREDIT UNION DAY - OCTOBER 16, 1986 - ASHEVILLE-BUNCOMBE CREDIT UNION DAY

2. Mayor Bissette read a proclamation proclaiming October 16, 1986, as "International Credit Union Day" and further that October 16, 1986, be proclaimed as "Asheville-Buncombe Credit Union Day."

Mayor Bissette read the proclamation and presented a copy to Doris Rigsby, Manager of the Asheville-Buncombe Employees Credit Union.

Councilman Price also requested that the City staff look into height regulations in zones other than R-1 and R-2.

Mayor Bissette requested that the following memorandum from Dr. Richard Nailling be included in the minutes.

PLANNING AND ZONING COUNCIL - STATEMENT 10/14/86

Members of the Asheville City Council

Mr. Mayor and City Councilmen:

I am addressing this statement to you in the hopes that you will consider very seriously the future of our fine mountain city as it relates to the Planning and Zoning Ordinance which is being presented for public discussion and passage this afternoon.

I feel that you are being forced into this "freeze Asheville mentality" by a backlash from poor administration in your Planning and Zoning and City Inspection Departments, chiefly instigated by the poorly controlled Woodbury Project. This project you know was fully approved by Planning and Zoning, but got out of hand because it was claimed that they did not have enough work force to follow afterward and see that things were being done right. Actually, a step to the windows at City Hall was all that was necessary!

The same officials are now forcing the most restrictive ordinance imaginable on our beautiful mountain city to stifle construction only 3.71 feet above the level of our Post Office steps, this being 2216.29 feet by the national geodetic survey.

Leave the mountain alone! Let history continue to develop! Just because Town Mountain is finished and very rich and acceptable, don't condemn Beaucatcher's future. It is still withstanding the recent poorly planned and more poorly monitored onslaughts of Woodbury Apartments, Windswept Condominiums (and just wait until the wind really does sweep!) and Wind in The Oaks, another wind susceptible structure - AND ALL OF THE ABOVE WITHOUT ADEQUATE WATER PRESSURE FOR FIREFIGHTING. It appears rather obvious that Council has mustered at least four votes, possibly five to steam roll this inadequate and fitiful ordinance over people who would yet like to come to the mountains and have a view from a nice mountain home.

Beaucatcher Mountain is not going to slide from its ridges and slopes of predominantly rock. One can see this by driving through the new cut in Town Mountain; which, incidently, was delayed some five or six years by a Westgate developer and the Town Mountain Association at several million dollars expense to the City, County, and State DOT. I am told this was an elevation in bid amounts of some eight million dollars.

Such engineers as Tektronics of Gatlinburg, the builder of some of the finest hotels and motels in that city and Lewis-Clark, nationally known planners of Raleigh have been on Beaucatcher Mountain and studied it and have felt that it could hold almost any type of structure, including cement buildings and bridges, due to its firm rock core.

It is a pity that the new officials coming in with such plants as BASF and others, who are interested in the quality of life of their employees, will have to go out in the country about nine miles to escape the arbitrary one

Verl Emrick, Director of Planning, said the purpose of the ordinance is to regulate development in hillside areas which will preserve the City's unique visual character, conserves the public health, safety, and general welfare, and promotes environmentally sound design and planning. He said the Hillside Ordinance would regulate multi-family developments on slopes and would affect all residential zones and commercial highway and office institutional zones where residential development is permitted. He said this ordinance would apply to developments that require a group developement review, are located on a site with a slope of 15% or greater, and are at an elevation of 2,220' or higher. He said the ordinance would not drastically affect development of property in the City of Asheville. By the use of a map, Mr. Emrick showed the areas of the City that would be affected by this ordinance. He said this particular ordinance does not address single family dwellings or small scale developments. He said in the Planning staff's opinion, the ordinance is not overly restricted in developments on mountain slopes.

Roger Lyda, professional engineer, spoke in opposition to the proposed ordinance stating that the purpose and objectives of the ordinance will not control the growth of property in the City of Asheville.

Doug Swaim, representing the Coalition of Asheville Neighborhoods, spoke in support of the ordinance stating that the ordinance is necessary to control development on mountain sides and minimize negative effects of developments on lower lying properties. He said the ordinance is not perfect, but it would help alleviate problems with developments on mountain slopes. He urged Council's adoption of the ordinance.

George Jensen, engineer, whose residence is in Weaverville, NC, said the ordinance should affect single family, as well as multi-family development because both types of construction hurt the environment through erosion run-off and other disturbances.

Rev. John David Stewart, of 139 Kenilworth Road and President of the Kenilworth Residents Association, spoke in support of the ordinance.

After discussion, Mayor Bissette closed the public hearing at 5:06 p.m.

Mayor Bissette said members of Council were previously furnished copies of the ordinance, and it would not be read in its entirety.

Councilman Boland moved for the adoption of Ordinance No. 1613. This motion was seconded by Vice-Mayor Frank.

On a roll call vote of 7-0, Ordinance No. 1613 passed on first reading.

Upon inquiry of Councilman Michalove and Mayor Bissette relative to their professional involvement with firms owning property in these particular areas, Corporation Counsel Slawter said there would be no conflicts of interest either on Councilman Michalove's or Mayor Bissette's participation and vote on this particular ordinance.

Vice-Mayor Frank noted that Council would be discussing standards for single-family dwellings on mountain slopes.

Mayor Bissette opened the public hearing at 5:13 p.m.

The City Clerk presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

The City Manager said there would be no problems relative to sewer easements due to the fact that the resolution will reserve easements for water and sewer lines.

After a brief discussion, Mayor Bissette closed the public hearing at 5:15 p.m.

Mayor Bissette said members of Council were previously furnished copies of the resolution and it would not be read in its entirety unless there was a specific request to do so.

Upon motion of Vice-Mayor Frank, seconded by Councilman Price, Resolution No. 86-196 was unanimously adopted.

Complete text of Resolution 86-196 will be found in Resolution Book No. 16 at Page 174-175.

ORDINANCE NO. 1611 - AN ORDINANCE AMENDING CHAPTER 30 OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE TO CREATE THE CHESTNUT-LIBERTY STREET AREA AS LOCAL HISTORIC DISTRICT

6. Consideration was given to the third reading of Ordinance No. 1611, an ordinance amending Chapter 30 of the Code of Ordinances of the City of Asheville to create The Chestnut-Liberty Street Area as local historic district.

Mayor Bissette said this ordinance would designate the Chestnut-Liberty Street neighborhood as a local historic district. Certificates of Appropriateness would be required by a property owner before any exterior rehabilitation or new construction can take place. At the August 12, 1986 meeting, a public hearing was held to consider a proposal by the Historic Resources Commission; however, this matter was remanded to the Historic Resources Commission to reconsider alternate plans that include a smaller area and different boundaries. The Historic Resources Commission has now presented Council with a revised proposal. This ordinance passed first reading at the September 30, 1986 meeting and second reading at the October 7, 1986 meeting.

Carolyn Humphries, Executive Director of the Historic Resources Commission, again outlines the bounderies to be included in the Chestnut -Liberty Street area as a local historic district.

Mayor Bissette said he had received several letters requesting that their individual properties be excluded from inclusion into the Chestnut-Liberty Street Historic District. He said one letter was received from Virginia Hampton owning Ward 2, Sheet 2, Lot 33 1/4; John Hall owning Ward 2, Sheet 2, Lot 33; and Ann Cross owning Ward 2, Sheet 4, Lot 112 1/2.

Ralph Bishop spoke in opposition to the ordinance.

Judge Frank Parker, owner of property in the proposed Chestnut-Liberty Street area, spoke in opposition to the ordinance and presented a

mile limit - and then be followed out by further expensive legal battles of annexation - while over extended water and sewer lines can't affort to follow them. It is fitting to mention at this time that Asheville was formerly 72,000 population and has been depressed to 55,000 for the last few counts. It will certainly not go anywhere after this restrictive ordinance is passed.

As a concerned citizen and moderately heavy taxpayer, I am not looking forward to the city's increasingly costly legal battles here and in Raleigh - and who knows, possibly in Washington, against such developers - two at the present time - who have been injured by P&Z staff to see to it that they acquaint and educate the members of the Council in the technical know-how to avoid these costly mistakes before they ever happen.

It should be a mandatory policy that all council members should be required to go see all property affected by this ordinance before passing such measures at these hearings. It is interesting to note that this public hearing had no notice in the Asheville Times last evening or the Asheville Citizen this morning, therefore it will not be very public!

It is very smug and unrepresentative of concern for the tax payer when Councilmen can break firm promises, repeatedly, to view such properties under consideration and practically to be condemned by this menacing ordinance. Possibly the councilman thinks "it will go away" if he does not see it. Who knows what he might be thinking? It certainly could not be foresight nor far-sighted in respect to Asheville's future.

Sincerely yours,

R. C. Nailling

Richard C. Nailling, M.D.

PUBLIC HEARING - CLOSING PUBLIC ALLEYS FOR PACK PLAZA PROJECT AREA

RESOLUTION NO. 86-196 - RESOLUTION TO CLOSE ALL PUBLIC ALLEYS LOCATED IN THE PACK PLAZA PROJECT AREA

5. A public hearing was held relative to closing all public alleys located in the Pack Plaza Project area, in the block bordered by Biltmore Avenue to the west, Eagle Street to the south, South Market Street to the east, and Pack Square to the north.

Mayor Bissette said a petition has been filed by Pack Plaza Associates Limited Partnership, owner of all the property located in the Pack Plaza Project in the block bounded by Biltmore Avenue to the west, Eagle Street to the south, South Market Street to the east and Pack Square to the north, requesting that all the public alleys therein, be permanently closed to public use. The permanent closing of these public alleys would not be either detrimental to or contrary to the public interest or the property rights of any individual and no individual owning property in the vicinity of said public alleys would be deprived of reasonable means of ingress and egress to this property. **

This public hearing was scheduled at the September 16, 1986 meeting.

**SEE MINUTES - OCTOBER 28, 1986.

expression of their request in the public hearing or previous public hearings, and letters received by the Mayor requesting that their property be excluded. This motion was seconded by Councilman Michalove.

Councilman Michalove said the exclusion of certain properties in this historic district would be setting a precedent of eliminating properties in various zoning matters. He said he felt the Council needs to look at the City as a whole; however, this was an unusual case and enough residents opposed the designation for Council not to proceed in making this a historic district.

Councilman Boland said he felt that eliminating certain properties would be a precedent that would cause a problem.

Carolyn Humphries, at the request of Councilman Boland, said the Historic Resources Commission would recommend that these properties not be excluded since the boundaries are that of a national historic district.

Mayor Bissette said he could not support Councilman Bratton's motion due to the fact that many people in the area who have not officially requested that their property be excluded would probably also like that opportunity.

On a voice vote of 5-2, Councilman Bratton's motion failed, with Mayor Bissette, Councilman Boland, Councilman Tisdale, Councilman Price, and Vice-Mayor Frank voting "no", and Councilman Bratton and Councilman Michalove voting "aye".

On a roll call vote of 4-3, Ordinance No. 1611 passed on third and final reading with Mayor Bissette, Councilman Michalove, and Council Bratton "no".

Complete text of Ordinance No. 1611 will be found in Ordinance Book No. 11 at Page 68-78.

APPROVAL OF THE CONSENT AGENDA

7. Mayor Bissette said the following items are of a routine nature and they have been previously reviewed by the members of the City Council. Therefore, by unanimous vote to approve these items, the City Council may, pursuant to the procedures established in Ordinance No. 1008, adopt all of the items with one motion without the full reading and/or separate motion adopting each individual item. Upon the request of a citizen, a member of the City Council, and/or a member of the City staff, any single item scheduled for approval on the consent agenda may be considered separately.

Resolution No. 86-197

A. Consideration of a resolution requiring each member of all City boards and commissions to vote upon all matters.

HIGHLIGHTS: This resolution will require each member of all City boards and commissions, including the Chairman, to vote upon all matters unless otherwise disqualified and unless otherwise provided for by law.

Resolution Book No. 16, Page 176.

letter from Helen McEyea of 120 Flint Street who opposed the designation of a historic district. He said she was denied permission to enclose her porch as she is located in the Montford Historic District.

Annette Owenby of East Chestnut Street said she had also written a letter requesting that her property be removed from the proposed area. She also presented letters from Donna Burgin and Helen McDaris. She said 64 percent of the property owners in the area are opposed to the designation and 34 residents have expressed their opposition to the ordinance.

John Sorrells noted that he had also written to the Mayor requesting that his property be removed from the designation.

Walter Batts of North Liberty Street asked that his property be removed from the designation. He asked if the proposed district is created, would the City of Asheville replace streets with brick and old street lights. He said he felt if the residents have to do their part, then the City should also have to comply with the historic regulations.

Margaret Bridgett of Chestnut Street spoke in favor of the ordinance.

Gene Gephart of 81 North Liberty Street spoke in favor of the ordinance.

Tom Steitler, Chairman of the Historic Resources Commission, spoke in support of the ordinance, stating that the City would also have to go through the due process with infrastructure changes in the neighborhood.

Gene Warner, spoke in support of the ordinance.

Richard Thornton of 123 Blackberry Inn Road in Weaverville, North Carolina, and past Director of Downtown Revitalization, said he felt voluntary guidelines should be used in the designation of a historic district rather than mandatory guidelines.

Willard Robinson of Madison Avenue spoke in support of the ordinance.

Tim Warner spoke in support of the ordinance.

Joe Penland, owner of property inside and outside of the proposed district spoke in opposition to the proposed ordinance stating that his business property should be exempt from the ordinance.

Bill Duckworth of 243 East Chestnut Street said all signatures presented to the Mayor on a petition opposing the historic district were original and obtained without duress. He said the City of Asheville residents do not need another layer of government control. He asked that his property also be excluded from the historic district designation.

Councilman Tisdale noted that all the residents should work together to make this particular area a beautiful district.

Councilman Bratton said she did not feel the historic district designation would be successful unless everyone in the area were in favor of the historic district.

After discussion, Councilman Bratton moved to exclude those properties requested to be excluded from the historic district, either by

FISCAL IMPACT: None

Resolution Book No. 16, Page 178.

Resolution No. 86-200

E. Consideration of a resolution supporting the application for a Civil Works Grant for Planning activities on the French Broad River in Asheville.

HIGHLIGHTS: The City Council desires to support an application for Civil Works Funds from the North Carolina Department of Natural Resources and Community Development for comprehensive planning activities on the French Broad River Corridor running through the Asheville urban area. The City desires to study a method and create a design to beautify and provide recreational opportunity for the citizens and visitors of this urban center. This will request the State to provide financial assistance in the amount of $20,000 or 50% of the planning costs, whichever is less. The Council will assume full obligation for payment of the balance of planning costs.

FISCAL IMPACT: Grant funds in the amount of $20,000.

Resolution Book No. 16, Page 179.

F. Consideration of a motion scheduling a public hearing for Wall Street Development Plan Phase II - Parking Deck for October 28, 1986.

HIGHLIGHTS: At a meeting held October 8, 1986, the Asheville Planning and Zoning Commission reviewed the site plan of Wall Street Development Plan, Phase II - Parking Deck which was prepared by Glave-Newman-Anderson, Architects, for Southeastern Historic Properties, Developer. The Commission moved to recommend approval of the plan and to recommend to City Council that they review the developer's plans for maintaining access to all businesses that are currently in operation on Wall Street.

FISCAL IMPACT: Memorandum of Agreement and City Agreements in place.

G. Consideration of a motion relative to a site plan of the proposed addition to Grove Park Inn for October 28, 1986.

HIGHLIGHTS: At a meeting held October 8, 1986, the Asheville Planning and Zoning Commission reviewed a site plan of the proposed addition to Grove Park Inn consisting of new guest rooms, meeting rooms, restaurant, convention facilities, and parking deck. The plan was prepared for Jack Tar Hotels - Grove Park Inn, Developer, by Daniel International Corporation, Greenville, S. C. The

B. Consideration of a motion relative to bids received for bulk Sodium Chloride (Rock Salt) for snow and ice control.

HIGHLIGHTS: Sealed bids were invited to furnish 600 tons of bulk sodium chloride for snow and ice control for the winter of 1986-87. Four bids were received. It is recommended that the contract be awarded to the low bidder, International Salt Company, Clarks Summit, Pennsylvania. Purchases will be made as required and funding is budgeted in the Public Works Department.

FISCAL IMPACT: $20,310.00 - Funding is budgeted in the Public Works Department, Street Division's operating budget.

Resolution No. 86-198

C. Consideration of a resolution authorizing the Mayor to execute a contract with the Housing Authority of the City of Asheville for federal compliance monitoring services in the Pack Plaza Project.

HIGHLIGHTS: This resolution will authorize the Mayor to execute a contract with the Housing Authority to perform federal compliance monitoring services including labor standard and equal opportunity contracting requirements in connection with the Pack Plaza Project.

FISCAL IMPACT: Contract will not exceed $15,000 for the duration of the project (18 months). Funds are available in the Pack Plaza Management contingency account (69 Fund).

Resolution Book No. 16, Page 177

Resolution No. 86-199

D. Consideration of a resolution authorizing the City Manager to enter into a lease agreement with Spartan Radiocasting Company to lease space from the City of Asheville at White Fawn Reservoir.

HIGHLIGHTS: The City of Asheville owns, operates, and maintains a tract of land known as White Fawn Reservoir on Windswept Drive used for the purposes of transmitting and receiving FM and TV signals. This resolution will authorize the City Manager to enter into a lease agreement with Spartan Radiocasting Company to lease space at White Fawn Reservoir for its storage building and radio tower.

CITY COUNCIL MEETING OF OCTOBER 28, 1986 - CIVIC CENTER BANQUET ROOM

Mayor Bissette announced that the regularly scheduled Council meeting for October 28, 1986, will be held in the Asheville Civic Center Banquet Room due to the anticipated large crowd.

RALPH BISHOP - LOTTERY SALES IN THE CITY OF ASHEVILLE - HISTORIC DISTRICT

10. Ralph Bishop again spoke to members of Council relative to the lottery sales in the City of Asheville, and his opposition to the designation of the Chestnut-Liberty Street area as a local historic district.

ADJOURNMENT

Upon motion of Councilman Tisdale, seconded by Councilman Price, the meeting adjourned to executive session to discuss a personnel matter at 6:40 p.m.

MAYOR

CITY CLERK

Commission moved to recommend approval of plans as presented subject to provision of off-street parking for construction personnel, subject to access from Club View Road during construction, provision of buffering and lighting to be approved by staff, and the provision of a 40' wide easement along the north property line to avoid future problems at that point before the issuance of an occupancy permit (clarified to say that this allows issuance of a building permit and allows construction; however, the occupancy permit would be contingent upon having a recorded 40' easement). Commission further moved to recommend that City Council set up a liaison committee during construction.

FISCAL IMPACT: None

H. Consideration of a motion to cancel the Council meeting scheduled for October 21, 1986 due to the North Carolina League of Municipalities.

Upon motion of Councilman Michalove, seconded by Councilman Boland, the Consent Agenda was unanimously approved.

RESOLUTION NO. 86-201 RESOLUTION AUTHORIZING THE PURCHASING DIRECTOR TO SELL SURPLUS EQUIPMENT AT PUBLIC AUCTION

8. Consideration of a resolution authorizing the Purchasing Director to sell surplus equipment at public auction.

Mayor Bissette presented the resolution stating that Resolution No. 86-170, adopted September 9, 1986, City Council authorized disposal of twenty-eight motor vehicles and other equipment. The City's Purchasing Director has identified two (2) garage doors from Hunt Hill Facility and other equipment. This resolution will allow the additional property to be sold at the auction.

Upon motion of Councilman Price, seconded by Vice-Mayor Frank, Resolution No. 86-201 was unanimously adopted.

Complete text of Resolution No. 86-201 will be found in Resolution Book No. 16 at page 180.

SCHEDULING PUBLIC HEARING - MUSE BUSINESS TO BE LOCATED ON JOHNSTON SCHOOL ROAD

9. Councilman Tisdale moved to schedule a public hearing relative to the site plan of the proposed Muse Business Park to be located on Johnston School Road for October 28, 1986. This motion was seconded by Councilman Boland and carried unanimously.

CLAIMS - KENNETH MCFECTURE (WATER)

The City Manager presented a claim received from Kenneth McFecture.

Mayor Bissette referred the claim to the Corporation Counsel for investigation and recommendation.

PUBLIC HEARING - SITE PLAN - MUSE BUSINESS PARK

4. A public hearing was held relative to the proposed Muse Business Park to be located on Johnson School Road.

Mayor Bissette said the Asheville Planning and Zoning Commission at a meeting held September 10, 1986, reviewed the site plan of the proposed Muse Business Park to be located on Johnson School Road. The plan was prepared by Robert Moody, Architect, for Troy Muse, Developer, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of the project, subject to: 1) compliance with Erosion Control Ordinance; 2) that the wall signs for each of the buildings not exceed 20 square feet; 3) that no access be granted to Scottsdale Drive; 4) that buffering be provided on the east side; 5) that on the west side the setback on Scottsdale Drive be increased to 40' minimum; 6) that a minimum of 20' buffer be provided along Scottsdale, along entire property line, prior to going to City Council; and 7) final approval from NCDOT on curb cut.

Mayor Bissette opened the public hearing at 4:32 p.m.

The City Clerk presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said the site plan does comply with the group development ordinance.

Mayor Bissette closed the public hearing at 4:36 p.m.

Vice-Mayor Frank moved to approve the site plan subject to the conditions outlined by the Planning and Zoning Commission. This motion was seconded by Councilman Tisdale and carried unanimously.

PUBLIC HEARING - SITE PLAN - BOB BARBOUR DEVELOPMENT - 1616 PATTON AVENUE

5. A public hearing was held relative to a site plan of the proposed Bob Barbour Development to be located at 1616 Patton Avenue.

Mayor Bissette said the Asheville Planning and Zoning Commission at a meeting held September 10, 1986, reviewed the site plan of the proposed Bob Barbour Development to be located at 1616 Patton Avenue. The plan was prepared by Vaughn & Melton, Engineers, for Bob Barbour, Developer, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of the project subject to buffering and compliance with the Erosion Control Ordinance.

Mayor Bissette opened the public hearing at 4:37 p.m.

The City Clerk presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said Phase I of the development on Patton Avenue, in the vicinity of Malvern Hills, had recently been rezoned. He said a lot of natural buffer will be provided and that all access will be on Patton Avenue. He said the Planning and Zoning Commission had voted to recommend approval of the project subject to and compliance with the Erosion Control and Buffering Ordinances.

Tuesday - October 28, 1986 - 4:00 p.m.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Mary Lloyd Frank; Councilmen Wilhelmina Bratton, Kenneth M. Michalove, Norma T. Price, and George M. Tisdale; City Attorney Patsy Brison; City Manager Douglas O. Bean; and City Clerk William F. Wolcott, Jr.

Absent: Councilman Walter R. Boland and Corporation Counsel William F. Slawter.

INVOCATION

Vice-Mayor Mayor Lloyd Frank introduced Dr. E. B. Turner, President of the State Baptist Association. She said Dr. Turner was also the Past President of the North Carolina League of Municipalities and Mayor ProTem of Lumberton, North Carolina. She extended a welcome to Dr. Turner and other members attending the state convention of the North Carolina Baptist Association.

APPROVAL OF THE MINUTES - OCTOBER 14, 1986 MEETING

1. Consideration was given to the approval of the minutes of the October 14, 1986 meeting.

Mayor Bissette said the minutes were amended to delete the wording, at the bottom of page 275, "the closing of these alleys will be subject to easements for water and sewer lines to be determined at a later date."

Mayor Bissette said the resolution, as adopted, already provided for the necessary water and sewer easements.

Mayor Bissette announced the approval of the minutes as amended.

PROCLAMATION - UNITED NATIONS DAY - OCTOBER 24, 1986

2. Mayor Bissette read a proclamation proclaiming Thursday, October 24, 1986, as United Nations Day.

Mayor Bissette recognized Barbara Dardin, Richard Martello, and Herman Allen and presented the proclamation to them.

RESOLUTION 86-202 - RESOLUTION ENDORSING THE NAMING OF A MAJOR NAVAL SHIP AS U.S.S. ASHEVILLE

3. Consideration was given to a resolution endorsing the naming of a major naval ship as U.S.S. Asheville.

Mayor Bissette read the resolution.

Upon motion of Councilman Price, seconded by Councilman Tisdale, Resolution No. 86-202 was unanimously adopted.

Complete copy of Resolution No. 86-202 will be found in Resolution Book No. 16 at page 181.

Dr. Erby R. Oglesby, owner of the property at 48 Battery Park, said in his last offer he had received from Southeastern Historic Properties, Inc., he had been notified to vacate his office by November 1, 1986. He said this disturbed him greatly since it was impossible to move a dental office and its equipment within the time frame given. Further, he said the letter had indicated that if he was not out of his office by November 1, 1986, City Council would be requested to start condemnation proceedings. He said this would have an adverse effect on him and he felt the letter was, in his opinion, high-handed and inappropriate.

Upon inquiry of Ralph Bishop, Mayor Bissette said the parking garage would be financed through revenue bonds.

Barry Olen, Wall Street merchant, said the parking study indicates elimination of current on-street parking in order for the new parking deck to be financially feasible. He said he felt it is mandatory that construction follow a specific schedule.

Mike Greene, Wick & Greene Jewelers, said there were 40 to 52 businesses at the beginning of the project and that some had moved out, but nobody had received any financial compensation for moving. He said this would be an excellent project, but without the addition of the 284 spaces in the parking deck, the project would not be feasible. He urged City Council to approve the project.

Doris Williams of Accudata Services, Inc., 62 and 52 Wall Street, said she had not asked for any payoff, but that she would request consideration in terms of her long-term lease. She said it was imperative that she have access to her building during construction, and before final approval was given by City Council, the plan should be looked at very carefully.

Mr. Larry Elliott of Elliott's Rental Mart, 111 Patton Avenue, said he is concerned about parking and loading and unloading during construction. He said he will not be able to conduct his business like this and requested that parking during the construction period be provided.

Councilman Price said she would hope that Southeastern Historic Properties, Inc. would work with current owners, tenants, and leaseholders during this difficult time of construction.

Mr. Steve Aceto reiterated the need for final plans and a schedule for parking and access for all tenants concerned. Further, he expressed the need for Council to appoint a responsible person to coordinate all of these efforts.

Councilman Bratton echoed the suggestion of Councilman Price for the development of a Committee to work with everyone during the construction period of this project.

Bill Smith said he had met with several of the property owners to discuss the project details. He said that even Southeastern has cash flow problems, but the improvements will benefit everyone's investment. He expressed his willingness to meet with every individual involved to discuss their individual problems and concerns and make every effort to arrive at an agreeable solution.

Verl Barick, Director of Planning, said the Planning and Zoning Commission and the Downtown Commission both recommend approval of the plan. He said the developers are sensitive to the issues of the remaining businesses on Wall Street and that these could best be addressed by the City's new Downtown Coordinator Leslie Anderson.

***

Mr. Glave made a slide presentation showing details of the Wall Street project.

Mr. William F. "Buck" Talman, representing Talman Office Supply, Inc., 101 Patton Avenue, spoke of the necessity of clearing residual property rights questions. The areas involved generally were overhead sidewalks, Express Alley, existing easements near the "wall", and access to the property. Continuing, Mr. Talman expressed support for the project and his willingness to work out any problems alluded to.

Mr. William Duckworth, in his role as property manager/agent for the Tench Francis Cox Building and the Anderson Building on Wall and College Street, spoke generally in favor of the project, but stressed the critical need for stronger links of communication between the City, the developer, the property owners, and the tenants. As an example, he cited the problems his clients had experienced with changeover in utilities and service to the rear of the buildings he manages.

Mr. Steve Barden, Attorney representing William Groover, owner of the Trophy House at 58 Wall Street and also representing Doris and Nancy Williams, owners of Accudata Services, Inc., said his clients have long-term leases on their businesses and that they currently have only one access onto Wall Street. He said they are also concerned about parking and loading for their businesses. Mr. Barden said he felt the easement on the bridge was of no benefit to the Trophy House or the Williams' business. He also said, in his opinion, the project is not ready for approval in its current format.

Mr. William G. Smith, President of Southeastern Historic Properties, Inc., said he would be happy to sit down with Mr. Barden and explain the project in detail. He further expressed his desire to work closely with the tenants during this time and during construction of the parking deck. He said he is working with Mr. Talman relative to the property rights question and possible interim relocation during construction.

Councilman Price suggested that Council should consider forming a Liaison Committee to work with the tenants and property owners as the project progresses.

After discussion, all parties (City Council, the developer, property owners, and tenants) agreed that such a committee would be useful and could accomplish a great deal.

Mr. Steve Aceto, Attorney representing Elizabeth Meadows Marple, owner of The Trophy House property, said that his client has long-term leases on the property, and that she feels both legal and moral obligations to these tenants. He said problems of access and parking during the construction should be addressed. He said he would support Councilman Price's recommendation to form a committee to work together during the construction period. Mr. Aceto said no provision for parking and access have been made for the 8 to 10 month construction period and these concerns should be addressed.

*** Corporation Counsel William F. Slawter arrived at the meeting at this time.

Walter Gale, a resident of Club View Rd., said Club View Rd. is a narrow, steep residential street and the noise, dust and debris from construction and the vehicular traffic will disturb the elderly, retired residents of Club View Road. He suggested that during the off-season they use the Clubhouse entrance in order to miss four houses on Club View and he said some responsible person should be in charge of seeing that the roads are kept clean. Mr. Gale was advised by Mr. Neilson and Mr. Westall that ingress and egress to the construction site would be through the Clubhouse parking lot.

Mr. Jack Westall, Attorney representing Grove Park Inn, said a number of concerns relative to traffic flow, lights, and on-site parking had been addressed through modification of the plans. He said the construction itself should cause very little inconvenience to the residents of the area. He requested that the 40' easement required by the Planning and Zoning Commission be reduced to a 20' easement. He said the plans had been revised to maintain a 20' fire lane.

Max Haner, Grove Park/Sunset Citizen Association, said the developer and contractor had addressed concerns of the association and that the Grove Park/Sunset Citizen Association is encouraged with the spirit of cooperation they have received from the developer and contractor.

Mike Greene, Wick & Greene Jewelers, spoke in support of the project and urged Council to approve. He said this addition would help the City to continue to grow.

Barry Olen said he would like to commend Council and the residents for their spirit of cooperation.

Mayor Bissette closed the public hearing at 5:27 p.m.

Councilman Michalove moved to approve the site plan for the proposed addition to the Grove Park Inn subject to the recommendations of the Planning and Zoning Commission except that the recommended 40' fire lane be reduced to a 20' fire lane to be maintained by Grove Park Inn. This motion was seconded by Councilman Bratton and carried unanimously.

PUBLIC HEARING - WALL STREET DEVELOPMENT PLAN - PHASE II - PARKING DECK

7. A public hearing was held relative to Wall Street Development Plan Phase II, Parking Deck.

Mayor Bissette said at a meeting held October 8, 1986, the Asheville Planning and Zoning Commission reviewed the site plan of Wall Street Development Plan, Phase II - Parking Deck which was prepared by Glave-Newman-Anderson, Architects, for Southeastern Historic Properties, Developer. The Commission moved to recommend approval of the plan and to recommend to City Council that they review the developer's plans for maintaining access to all businesses that are currently in operation on Wall Street. This public hearing was scheduled at the October 14, 1986 meeting. Memorandum of Agreement and City Agreements are in place.

Mayor Bissette opened the public hearing at 5:29 p.m.

The City Clerk presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Mayor Bissette closed the public hearing at 4:44 p.m.

Councilman Tisdale moved to approve the site plan of the proposed Bob Barbour Development subject to the recommendations of the Planning and Zoning Commission. This motion was seconded by Councilman Michalove and carried unanimously.

PUBLIC HEARING - SITE PLAN - PROPOSED ADDITION TO GROVE PARK INN

6. A public hearing was held relative to a site plan of the proposed addition to Grove Park Inn.

Mayor Bissette said at a meeting held October 8, 1986, the Asheville Planning and Zoning Commission reviewed a site plan of the proposed addition to Grove Park Inn consisting of new guests rooms, meeting rooms, restaurant, convention facilities, and parking deck. The plan was prepared for Jack Tar Hotels - Grove Park Inn, Developer, by Daniel International Corporation, Greenville, S.C. The Commission moved to recommend approval of the plans as presented subject to provisions of off-street parking for construction personnel, subject to access from Club View Road during construction, provision of buffering and lighting to be approved by staff, and the provision of a 40' wide easement along the north property line to avoid future problems at that point before the issuance of an occupancy permit (clarified to say that this allows issuance of a building permit and allows construction; however, the occupancy permit would be contingent upon having a recorded 40' easement for a fire lane). Commission further moved to recommend that City Council set up a liaison committee during construction. This public hearing was scheduled at the October 14, 1986 meeting.

Mayor Bissette opened the public hearing at 4:46 p.m.

The City Clerk presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said the concerns voiced at the Planning and Zoning Commission meeting had been resolved concerning water and sewer commitments from the City and MSD. He said the Innsbruck Road residents had voiced concerns relative to buffering and lighting and access to an employee parking lot. He said the plans had been revised to delete any vehicular access on to Innsbruck Road. He said all construction traffic would be restricted through Club View instead of Macon Avenue.

Mr. Emrick said a Grove Park Liaison Committee had been established to work with all involved parties during the construction of the expansion to the Grove Park Inn. He said the committee is composed of himself and Al Kopf from the Planning Department, Barbara Molloy and Max Haner from the Sunset Grove Park Association, and Jack Westall representing the Grove Park Inn. He said this committee has been formed to be a sounding board for parties during the construction period and he hoped that any problems in the neighborhood could be discussed, and a reasonable compromise reached through this committee.

Ken Neilson, Architect, said the addition of the 11-story wing will provide 186 guest rooms, a lounge, 9 meeting rooms, and a 17,000 square feet ballroom with banquet seating for 1,700. He said construction traffic would use Club View Road and that noise from the construction itself would begin around 9:00 a.m. and end around 6:00 p.m., and construction is scheduled to begin in mid-November.

Doug McCovey, 155 Arco Road, spoke in opposition to the rezoning. He said a 50' strip is needed in order to prevent visual and noise pollution.

Mr. Walter Fletcher, 154 Arco Road, said he does not live at this address but owns the property. He read the minutes of last year's Council meeting concerning this same request. He said the proposed rezoning would result in devaluation of the homes in the area and opens up the possibility of businesses such as fast foods in the area.

Mr. Beale Fletcher, 207 Governor's View Road, presented members of Council with a letter of opposition from the Beverly Hills Homeowners Association. He said the residents strongly object to the rezoning and that a fast food business is a strong possibility for the site. He said there is also a restrictive covenant on this property.

Corporation Counsel William F. Slawter said these are separate matters, and that the zoning considerations are made without consideration of deed restrictions.

Linda Fletcher, wife of Walter Fletcher, 154 Arco Road, said all residents are opposed and that they do not want the noise, trash, traffic and devaluation of property which would occur as a result of the rezoning. She said this area is intended for residential use.

Mayor Bissette said the City does not get involved in the deed restrictive covenants for this area.

Mr. J. D. Netherton, 161 Arco Road, spoke in opposition to the proposed zoning. He said the Commercial Highway designation will kill valuation of all property in the area.

Mr. Elmer Moxley, 32 Pinehurst Road, said all residents of the area object to the proposed rezoning.

Mr. Jack Stevens, Attorney for the Prinks, said most of the opposition from the neighborhood is due to their concern about the increased congestion. He said a fast food service can presently be put in the area and the only thing that they can't do is use the back portion of the property. He said he has serious doubts about the enforceability of the deed restrictions mentioned.

Mr. Dean Hines, 22 Crestwood Lane, said the surrounding property is already commercial and the price should not have any bearing on the rezoning consideration. He said the property should be used to its maximum best use.

Mayor Bissette closed the public hearing at 8:34 p.m.

Mayor Bissette said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety unless there was a specific request to do so.

Councilman Michalove moved to remand the request back to the Planning and Zoning Commission for inclusion in the comprehensive plan being developed with recommendations for zoning changes throughout the City. This motion was seconded by Councilman Tisdale and carried unanimously.

Paul Greene of Wick & Greene Jewelers also expressed his support for the project.

Councilman Michalove moved that the hearing be continued until Wednesday, at which time the City Council is scheduled to meet for other business, so Council could give further consideration to a satisfactory solution to the problems and concerns brought to their attention.

After discussion, Councilman Michalove withdrew his motion.

Mr. William F. Talman suggested that as a way of progressing with the project, that it be approved contingent upon the execution of the necessary agreements to satisfy the property rights questions.

Mayor Bissette closed the public hearing at 7:22 p.m.

Mayor Bissette indicated that at this point Council could only approve the project in concept, since legal documents are not in place. However, he said, the City would like to move ahead with the project on a conditional basis, until the developers, business owners, property owners, tenants, and City staff worked out a satisfactory solution.

Vice-Mayor Frank moved to approve the site plan in concept, contingent upon a construction plan to be approved by the Asheville City Council to include the acquisition of the subject property and the resolution of all property rights concerning those properties; with final approval to be made by the Asheville City Council after a determination of those matters. This motion was seconded by Councilman Michalove and carried unanimously.

City Council supported the establishment of a Wall Street Liaison Committee to work with the tenants and property owners as the project progresses.

PUBLIC HEARING - REZONING PROPERTY ON ARCO ROAD

8. Mayor Bissette said the Asheville Planning and Zoning Commission at a meeting held September 10, 1986, considered the petition of Attorney John Stevens for Mr. and Mrs. Elmer Frink that a portion of Lot 192, Sheet 13, Ward 8, be rezoned from R-2 Residential District to CH Commercial Highway District. The property is located on Arco Road. After review and discussion, the Commission voted to recommend to City Council that a portion of Lot 192, Sheet 13, Ward 8 to within 50' of Arco Road be rezoned from R-2 Residential District to CH Commercial Highway District.

Mayor Bissette opened the public hearing at 7:36 p.m.

Mr. Jack Stevens, Attorney for Mr. and Mrs. Elmer Frink, said this property fronts Tunnel Road and Arco Road, and the Frinks would like to develop the property and put it on the market for sale. He said the best use of the property can be accomplished under the Commercial Highway designation.

Estey McCall, 153 Arco Road, said that her residence was directly in front of this property and that she is opposed to the area being rezoned Commercial Highway.

authorize the Mayor and City Manager to execute an agreement with Thompson-Gordon-Shook Engineers, Inc. and any change orders within the budgeted amount for the bridge replacement program.

Mayor Bissette said members of Council were previously furnished copies of the resolution and it would not be read in its entirety unless there was a specific request to do so.

Upon motion of Councilman Tisdale, seconded by Councilman Frank, Resolution No. 86-203 was unanimously adopted.

Complete text of Resolution No. 86-203 will be found in Resolution Book 16 at page 182.

MOTION - SCHEDULING PUBLIC HEARING/SITE PLAN - PHASE II TIMBERS CONDOMINIUMS

12. Consideration was given to a motion to schedule a public hearing relative to a site plan of Phase II of Timbers Condominiums to be located on Beaverdam Road for November 4, 1986.

Mayor Bissette said the Asheville Planning and Zoning Commission at a meeting held August 6, 1986, reviewed a site plan of Phase II of Timbers Condominiums located on Beaverdam Road. The plan was prepared by Traber Associates, Architect, for North Asheville Condominium Enterprises, Inc., Developer, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of the project subject to: 1) a minimum of 25' setback be maintained at any point; 2) provision of buffering in accordance with Ordinance 1592 on the south and east abutting the R-1 District; and 3) compliance with the Erosion Control Ordinance.

Councilman Price moved to schedule the public hearing relative to the site plan of Phase II of Timbers Condominiums for November 4, 1986. This motion was seconded by Councilman Frank and carried unanimously.

CITY MANAGER - AFFIRMATIVE ACTION PLAN

13. The City Manager said he had furnished members of Council with copies of the draft Affirmative Action Plan for the City of Asheville. He said he would be reviewing the draft with Council during the next few weeks.

RESOLUTION NO. 86-204 - RESOLUTION APPOINTING A MEMBER TO THE BOARD OF ELECTRICAL EXAMINERS

14. Consideration was given to a resolution appointing Jonathan D. Smith, 12 Parkview Dr., Asheville, North Carolina 28805, 298-2969, as a member to the Board of Electrical Examiners to serve the unexpired term of J. Michael Boozer, term expiring July 1, 1987.

From motion of Vice-Mayor Frank, seconded by Councilman Michalove, Resolution No. 86-204 was unanimously adopted.

Complete text of Resolution No. 86-204 will be found in Resolution Book No. 16 at page 183.

PUBLIC HEARING - ISSUANCE OF CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY - HILLIARD L. WRIGHT

9. A public hearing was held relative to the issuance of a Certificate of Public Convenience and Necessity to Hilliard L. Wright.

Mayor Bissette said the City Manager will be authorized to issue a Certificate of Public Convenience and Necessity to Hilliard L. Wright pursuant to Section 27-34 of the Code of Ordinances of the City of Asheville upon proof of financial responsibility in accordance with N. C. Gen. Stat. Sec. 20-280.

Mayor Bissette opened the public hearing at 8:44 p.m.

The City Clerk presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Since Mr. Wright was not present at the meeting, Councilman Michalove moved to continue the hearing to November 11, 1986. This motion was seconded by Councilman Price and carried unanimously.

Council requested that Mr. Wright be given notice of the new hearing date.

ORDINANCE NO. 1613 - AN ORDINANCE AMENDING ORDINANCE NO. 322, BEING THE ZONING ORDINANCE OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE (HILLSIDES)

10. Consideration was given to the second reading of Ordinance No. 1613, an ordinance amending Ordinance No. 322, being the zoning ordinance of the Code of Ordinances of the City of Asheville (Hillsides).

Mayor Bissette said the Asheville Planning and Zoning Commission at a meeting held September 10, 1986, reviewed and recommended approval of the Mountain/Slope Standards subject to clarification that it only pertains to land over 2,220 feet. This ordinance was read on first reading on October 14, 1986.

Mayor Bissette said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety unless there was a specific request to do so.

On a roll call vote of 6-0, Ordinance No. 1613 passed on second reading.

RESOLUTION NO. 86-203 - RESOLUTION AUTHORIZING MAYOR AND CITY MANAGER TO EXECUTE A SUPPLEMENTAL ENGINEERING AGREEMENT WITH THOMPSON-GORDON-SHOOK ENGINEERS, INC. FOR THE CHESTNUT STREET REPLACEMENT PROJECT

11. Consideration was given to a resolution authorizing the Mayor and the City Manager to execute a supplemental engineering agreement with Thompson-Gordon-Shook Engineers, Inc. for the Chestnut Street Bridge Replacement Project.

Mayor Bissette said the City has entered into an engineering contract with Thompson-Gordon-Shook Engineers, Inc. to design replacement of the Chestnut Street Bridge. Upon completion of the design and approval by N.C. DOT and the City, changes are required to the original approved design to accommodate the N.C. DOT Broadway Avenue Project. This resolution will

Tuesday - November 4, 1986 - 4:00 p.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Mary Lloyd Frank, Councilmen Wilhelmina Bratton, Walter R. Boland; Kenneth M. Michalove, Norma T. Price, and George M. Tisdale; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: None

INVOCATION

The invocation was given by Councilman Bratton.

APPROVAL OF THE MINUTES - OCTOBER 28, 1986 MEETING

1. Consideration was given to the approval of the minutes of the October 28, 1986, meeting.

Mayor Bissette announced the approval of the minutes as submitted.

PROCLAMATION - ALZHEIMER'S DISEASE AWARENESS MONTH - NOVEMBER, 1986

2. Mayor Bissette read a proclamation proclaiming the Month of November, 1986, as "Alzheimer's Disease Awareness Month".

Mayor Bissette said the annual banquet for the Alzheimer's Disease Organization would be held on Thursday evening. He said due to other commitments, however, he would not be able to attend but that Vice-Mayor Frank would attend the banquet and deliver the proclamation to the Organization at that time.

PROCLAMATION - MAYORS' D-DAY IN THE WAR ON DRUGS - NOVEMBER 18, 1986

2a. Mayor Bissette read a proclamation proclaiming November 18, 1986 as "Mayors' D-Day in the War on Drugs".

PUBLIC HEARING - SITE PLAN OF PHASE II OF TIMBERS CONDOMINIUMS

3. A public hearing was held relative to the site plan of Phase II of the Timbers Condominiums to be located on Beaverdam Road.

Mayor Bissette said the Asheville Planning and Zoning Commission at a meeting held August 6, 1986, reviewed a site plan of Phase II of Timbers Condominiums to be located on Beaverdam Road. The plan was prepared by Traber Associates, Architect, for North Asheville Condominiums Enterprises, Inc., Developer, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of the project subject to: 1) a minimum of 25' setback be maintained at any point; 2) provision of buffering in accordance with Ordinance 1592 on the south and east abutting the R-1 District; and 3) compliance with the Erosion Control Ordinance.

CLAIMS - MARY MOSLEY (WATER) - MURPHY GOGGINS (WATER) - BECKY YORK (WATER) - PEARL YARBROUGH (WATER)

15. The City Manager presented claims received from Mary Mosley, Murphy Goggins, Becky York, and Pearl Yarbrough.

Mayor Bissette referred the claims to the Corporation Counsel for investigation and recommendation.

MAYOR BISSETTE ANNOUNCEMENT - PRESS CONFERENCE

16. Mayor Bissette said there would be an important Press Conference at 2:00 p.m. tomorrow. He asked that all members of Council try to attend. He said immediately following the Press Conference, the Council would convene in a short Executive Session.

ADJOURNMENT

Upon motion of Councilman Price, seconded by Councilman Michalove, the meeting adjourned until 2:30 p.m. on Wednesday, October 29, 1986.

Mayor

William F. Holcombe
City Clerk

Mayor Bissette said the Asheville Planning and Zoning Commission at a meeting held September 10, 1986, reviewed and recommended approval of the Mountain/Slope Standards subject to clarification that it only pertains to land over 2,220 feet. This ordinance was read and passed on first reading on October 14, 1986, and passed second reading October 28, 1986.

Mayor Bissette said members of Council were previously furnished copies of the ordinance and it would not be reread in its entirety unless there was a specific request to do so.

Corporation Counsel William F. Slawter presented the following two new sections to be included in the ordinance for Council's consideration.

"Section 2(b) - Residential development which does not meet all of the above standards shall remain governed by Section 30-7-1 (B) of the Code of Ordinances."

"Section 8 - Applicability
This article shall not apply to permit holders having valid building or zoning permits on the effective date of this Article nor to the issuance of building or zoning permits for repair or rehabilitation of existing structures, nor to those parties who have filed application for building or zoning permits on or before the effective date of this Article."

Councilman Price moved to amend the ordinance as read by the Corporation Counsel. This motion was seconded by Councilman Tisdale and carried unanimously.

On a roll call vote of 7-0, Ordinance 1613 passed on third and final reading, as amended.

Complete text of Ordinance No. 1613 will be found in Ordinance Book No. 11 at page 81-89.

RESOLUTION NO. 86-205 - RESOLUTION ESTABLISHING A FLEXIBLE BENEFITS PLAN FOR THE EMPLOYEES OF THE CITY OF ASHEVILLE

5. Consideration was given to a resolution establishing a flexible benefits plan for the employees of the City of Asheville.

Mayor Bissette said a flexible benefits plan would provide employees with an opportunity to make pre-tax deductions from their weekly or bi-weekly pay and to use these funds during the course of the year to be reimbursed for eligible employee benefits.

City Manager, Doug Bean, said the program is a no-cost benefit the City can provide to its employees to allow them to put pre-tax money into an account to pay for eligible expenses under the plan. He said it would take two (2) months to educate the employees about the program, and that he would like to begin the program on January 1, 1987.

Mayor Bissette said this program is of no cost to the City other than the administration of the plan, and it would provide the employees with a significant benefit. He said we would need to provide information and education to the employees so they will realize the benefits of the plan and be able to take advantage of it.

Mayor Bissette said he had a conflict in voting on this issue since his firm represents North Asheville Condominium Enterprises, Inc., and requested that Council excuse him from voting on the matter.

Councilman Tisdale moved to excuse the Mayor from voting on the site plan of Phase II of the Timbers Condominiums. This motion was seconded by Councilman Price and carried unanimously.

Vice-Mayor Frank took over the chair.

Vice-Mayor Frank opened the public hearing at 4:20 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Veri Emrick, Director of Planning, said as Mayor Bissette had indicated, the site plan for Phase II of the Timbers Condominiums was reviewed by the Planning and Zoning Commission at their August meeting. He said the second phase of the project will contain 16 additional units. He said Phase I had contained 68 units, and the total project would include 86 units.

Mr. Emrick said after the Planning and Zoning Commission had reviewed the drawings, Mr. Traber had submitted new drawings which showed modifications to include buffering and a 25' setback that had been required by the Commission. He said the Engineering Division is handling the final submission of plans for Erosion Control, and that all parking requirements for both phases of the project had been met.

Mr. Emrick said the Council should include in their motion to approve the project the three (3) conditions recommended by the Planning and Zoning Commission.

Upon inquiry of Councilman Price, Mr. Emrick said the buffering for the residential areas is contained in the 25' setback requirements.

Vice-Mayor Frank closed the public hearing at 4:22 p.m.

Councilman Boland moved to approve the site plan of Phase II of the Timbers Condominiums subject to the recommendations made by the Planning and Zoning Commission. This motion was seconded by Councilman Tisdale and carried unanimously.

Mayor Bissette resumed the chair.

ORDINANCE NO. 1613, AN ORDINANCE AMENDING ORDINANCE NO. 322, BEING THE ZONING ORDINANCE OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE (HILLSIDES)

4. Consideration was given to the third reading of Ordinance No. 1613, an ordinance amending Ordinance No. 322, being the Zoning Ordinance of the Code of Ordinances of the City of Asheville (Hillsides).

extreme circumstances. He said at the initial hearing for the project, parking on one side of the street on Fenner Avenue had been agreed to, but had not been done. He said at a small cost, some additional improvements to Fenner Avenue could be made to improve the street for the residents.

Upon inquiry of Councilman Tisdale, Mr. Emrick said no Council action was required to permit parking only on one side of the street on Fenner Avenue.

Mr. Harold Garland, resident of 88 Fenner Avenue, said Council had originally approved 7 units for this project, which he had accepted, even though he had been opposed to it. He said he felt another unit should not be added to the project, because of the potential of additional traffic to the narrow, crowded street. He said he did not think residents of Fenner Avenue knew about the proposed change or they would have been present today to oppose the change.

Upon inquiry of Mayor Bissette relative to whether or not there was any requirement that a notice to the public be published, Corporation Counsel William F. Slawter said a notice to the public would be required only if the change was of such a significance that it would be considered a new site plan, and that would depend to a large extent, as to what constitutes "minor" changes.

Mr. Emrick responded that, in his opinion, the amendment was "minor" in nature.

Councilman Michalove suggested that the matter be postponed for one week to give the neighborhood an opportunity to respond to the proposed change.

Upon inquiry of Councilman Michalove relative to the status of construction, Mr. Samsel said the owner had already made arrangements for contractor to be on the site.

There was a discussion among Council members relative to approving only the 6-unit building, and the concerns about parking and traffic problems on Fenner Avenue.

City Manager, Doug Bean, said he would have a report for Council next week relative to the placement of "no parking" signs on one side of the street on Fenner Avenue.

Upon inquiry of Councilman Tisdale, Mr. Samsel said there was not a question about the adequacy of water for the units, but whether or not there was sufficient water pressure for fire protection. He said sprinklers would be installed in the units, and the pressure was sufficient for the operation of the sprinklers to provide fire protection.

Councilman Price moved to approve the site plan, as amended, to allow one (1) additional unit. This motion was seconded by Councilman Boland.

Councilman Bratton and Councilman Tisdale said they could not support the motion because they felt the property owners should have been notified.

Mayor Bissette said copies of this resolution were previously distributed to members of City Council and the resolution would not be read unless there was a specific request to do so.

Upon motion of Vice-Mayor Frank, seconded by Councilman Michalove, Resolution No. 86-205 was unanimously adopted.

Complete text of Resolution 86-205 will be found in Resolution Book No. 16 at Page 184-196.

AMENDMENT TO SITE PLAN - APARTMENT COMPLEX - BARNARD AND FENNER AVENUES

6. Consideration was given to an amendment to the site plan of an apartment complex to be located on Barnard and Fenner Avenues.

Mr. Verl Emrick, Director of Planning, said this is a request by the Architect, Jim Samsel, to amend the site plan of the project for the addition of 1 unit. He said that Council had previously approved the site plan for this project in June. He said the Architect proposes that the existing building contain 2 units, and that the new building contain 6 units rather than 5. He said the complex is 13 units short of what is allowed under the Zoning Ordinance for the R-3 Residential District.

Mr. Emrick said, it was his opinion, he has the authority to grant this change since it is less than 5,000 square feet without coming to Council for approval. However, he said because there had been opposition and concern expressed during the initial approval of the project, he felt it best to bring the request before Council so that everyone would know exactly what is going on.

Upon inquiry of Councilman Price, Mr. Samsel said the existing building would contain 2 units and the new building would contain 6 units, and the total project was going from 7 units to 8 units.

Councilman Tisdale said that he owns property adjoining the project and there had been some concerns about parking problems, both on Maney Avenue and Fenner Avenue, as new duplexes and apartments continue to be built in the area.

Upon inquiry of Councilman Tisdale, Mr. Samsel said the building would be built on the southwest side of the existing building, and that the evcavation done in the last week or so was for a parking lot. He said the project originally had 7 units, 4 of which are going to be attached to the existing building, but they had decided it would be more cost effective to take the existing house and make it into 2 units, and build a new 6-unit building.

Upon inquiry of Councilman Tisdale, Mr. Emrick said the Zoning Ordinance requires 2 parking spaces per unit.

Upon inquiry of Councilman Price, Mr. Samsel said 17 parking spaces are being provided.

In response to Councilman Tisdale, Mr. Samsel said there is an additional lot that could be used for parking during the next phase, and once that phase is built, there would be more flexibility in parking in that the driveways are wide enough to accommodate additional parking during

community center also has a high volume of usage. He said the community's concern is for more meeting space, and he was pleased with the interest the community expressed.

Councilman Price said she felt the problem is still being perceived that the City is going to take over the library space, regardless of the comments, which continue to be favor of the library. In talking with the Librarian, she said she was told that there was total support from all of the library staff and that the bookmobile did not need to be there, and the space could be better utilized.

Councilman Tisdale said that the new Librarian for the County, Mr. Douglas F. Perry, had attended the meeting, and it was his understanding that Mr. Perry would be contacting the City Manager about some additional floor space on the upper level.

DR. OGLESBY PROPERTY - BATTERY PARK AVENUE

8. Mr. Eugene W. Ellison, Attorney for Dr. Oglesby, said he and Dr. Oglesby had been dealing with Southeastern Developers for some time. He said he wanted to make Council aware that they have not stoped negotiating with Southeastern. He said he had been out of town last week when someone from Southeastern had tried to contact him, and after contact with the City Manager's office, someone from the City Manager's office had contacted his client, Dr. Oglesby. He said negotiations on the matter had not been closed and he believes some conclusions will be reached within the next couple of weeks.

CLAIMS - ANN DEMETRIS (FIRE) - MARY FRANCES PICKENS (STREETS) - MARY KINCAID - (SANITATION)

9. The City Manager presented claims received from Ann Demetris (Fire), Mary Frances Pickens (Streets), and Mary Kincaid (Sanitation).

Mayor Bissette referred the claims to the Corporation Counsel for investigation and recommendation.

RALPH BISHOP - LOTTERY SALES IN THE CITY OF ASHEVILLE

10. Ralph Bishop again spoke to members of Council relative to lottery sales in the City of Asheville, and the City Manager's duty to enforce the lottery laws.

ADJOURNMENT

Upon motion of Councilman Price, seconded by Councilman Tisdale, the meeting adjourned at 5:05 p.m.

MAYOR

CITY CLERK

On a voice vote of 4-3, the site plan, as amended, was approved with Councilman Bratton, Councilman Tisdale, and Councilman Michalove voting "no".

Mayor Bissette noted this was an administrative matter and only a slight change which was within the realm of the Planning Director's authority to make the decision. However, he said, because of past concerns he understood why Mr. Emrick wanted to bring this matter before the City Council.

Councilman Boland said the City had sponsored a conference several years ago trying to straighten out some of the problems in dealing with developers to simplify and quicken the process the developers go through, and to let them know in a clear fashion what they have to do and where they have to go, hopefully through a one-stop process.

Mayor Bissette said the City Manager has been working for some time to establish a one-stop permitting system, and that the process will be in place on December 1, 1986. He said the system had been developed through a conference with representatives from the Home Builders Association and the Board of Realtors. He said he felt this would be a good thing for the City and the developers, and requested that the City Manager give Council a briefing on how the process would work.

City Manager Doug Bean said one phase of the program, the Technical Review Committee, was already in place and operating. He said the Committee meets every week. He said City staff is in the process of putting a package together on the one-stop process, and he will be giving this information to Council in the near future.

REPORT BY CITY MANAGER - WEST ASHEVILLE COMMUNITY CENTER

7. City Manager Doug Bean said there have been concerns at the Community Center about the proposal to move out the bookmobile and possibly replacing the use of that facility with recreational use. He said his proposal for the facility is as follows: 1) to not move the library out, but explore either a joint effort with the County to expand the building or explore ways to jointly use that facility for the library and the City; 2) to go ahead with cosmetic changes to the recreation center such as painting, replacement of light fixtures, and kitchen equipment; and 3) to go ahead and move the fence back to provide enough parking for the facility.

The City Manager said we could go ahead now with the parking and cosmetic changes. However, he said it was his understanding that Councilman Tisdale wanted to talk to the Intergovermental Relations Committee about the possibility of the County's participation, since the library is a County function and the facility belongs to the City.

The City Manager said he would have a budget amendment at next week's meeting for Council's consideration on the capital improvements to the West Asheville Community Center.

Councilman Tisdale said he did not realize until a recent meeting that the County was not paying any rent for the use of the center. He said the library had one of the highest usages in the County and that the

Mayor Bissette presented the proclamation to Joyce Brown with the Beta Sigma Phi Sorority.

Joyce Brown announced that the Beta Sigma Phi's 30th Annual Snow Carnival Charity Ball will be held November 22 at the Quality Inn On The Plaza.

PUBLIC HEARING - ISSUANCE OF A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO HILLIARD L. WRIGHT

3. Mayor Bissette said Hilliard L. Wright had requested the issuance of a Public Convenience and Necessity for the operation of one taxicab, however, he said he had received notification from Mr. Wright that his request be cancelled.

ORDINANCE NO. 1614 - BUDGET ORDINANCE AMENDMENT - CDBG PROJECTS - CONTINUATION OF EAST RIVERSIDE PROPERTY MANAGEMENT AND DOLLAR-A-LOT PROGRAMS

4. Consideration was given to a budget ordinance amendment to close out prior year fund balance for on-going CDBG projects and to provide funds to continue East Riverside property management and dollar-a-lot programs.

Mayor Bissette said this budget ordinance amendment will close out prior year fund balance for on-going CDBG projects and provide funds to continue East Riverside property management and dollar-a-lot programs. The amendment will also appropriate CDBG matching funds for the Champion Sewer/Siphon project. $50,000 of program income from R-48 land sales will be used to fund dollar-a-lot and property management projects. $75,000 from CDBG Contingency will be used to fund the Champion Sewer/Siphon project.

Marvin Vierra, Community Development Director, said appropriations of the surplus funds would be allocated for community development administration in the amount of $19,350; community development planning $10,498; dollar-a-lot program $35,000; East Riverside property management $15,000; contingency $36,126; and $75,000 to the Champion Sewer/Siphon project.

Mayor Bissette said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety; and anyone desiring a copy of the ordinance will be furnished a copy.

Councilman Price moved for the adoption of Ordinance No. 1614. This motion was seconded by Councilman Tisdale.

On a roll call vote of 6-0, Ordinance No. 1614 passed on first and final reading.

Complete text of Ordinance No. 1614 will be found in Ordinance No. 11 at page 90.

ORDINANCE NO. 1615 - BUDGET ORDINANCE AMENDMENT FOR IMPROVEMENTS TO WEST ASHEVILLE RECREATION CENTER

5. Consideration was given to a budget ordinance amendment relative to improvements to the West Asheville Recreation Center.

Tuesday - November 11, 1986 - 4:00 p.m.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Mary Lloyd Frank; Councilmen Wilhelmina Bratton, Walter R. Boland; Norma T. Price, and George M. Tisdale; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Deputy City Clerk Carol Hensley.

Absent: Councilman Kenneth Michalove and Associate City Manager/City Clerk William F. Wolcott, Jr.

INVOCATION

In observance of Veterans Day, Mayor Bissette requested that members of Council and the audience join with him in giving the pledge of allegiance to the flag.

Mayor Bissette gave the invocation.

APPROVAL OF THE MINUTES - NOVEMBER 4, 1986 MEETING

1. Consideration was given to the approval of the minutes of the November 4, 1986, meeting.

Mayor Bissette announced the approval of the minutes as submitted.

PROCLAMATION - NOVEMBER 14, 1986 - "OPERATING ROOM NURSE DAY"

2. Mayor Bissette read a proclamation proclaiming November 14, 1986, as "Operating Room Nurse Day".

Mayor Bissette presented the proclamation to Ann Barrett and Lucia Ruckman of the Association of Operating Room Nurses of Western North Carolina.

PROCLAMATION - NOVEMBER 17 - 21, 1986 - "BIG BROTHERS AND SISTERS APPRECIATION WEEK"

2A. Mayor Bissette read a proclamation proclaiming the week of November 17 - 21, 1986, as "Big Brothers and Sisters Appreciation Week".

Mayor Bissette presented the proclamation to Steve Kirkland, Executive Director, and J. D. Jackson, Board President.

PROCLAMATION - NOVEMBER 20, 1986 - "GREAT AMERICAN SMOKE OUT DAY"

2B. Mayor Bissette read a proclamation proclaiming Thursday, November 20, 1986, as "Great American Smoke Out Day".

Mayor Bissette presented the proclamation to Judith Holt with the American Cancer Society.

PROCLAMATION - WEEK OF NOVEMBER 17, 1986, AS "BETA SIGMA PHI WEEK"

2C. Mayor Bissette read a proclamation proclaiming the week of November 17, 1986, as "Beta Sigma Phi Week".

Councilman Boland moved for the adoption of Ordinance No. 1616. This motion was seconded by Councilman Price.

Councilman Bratton noted that she could not support the adoption of this ordinance because she felt minorities should not be separated but be a part of the mainstream. She said she would feel more comfortable with the loan pool if it was for the entire community. She said she felt the Cherokee/Asheville Business Development Center should merge with the Asheville Area Chamber of Commerce.

On a roll call vote of 5-1, Ordinance No. 1616 passed on first and final reading with Councilman Bratton voting "no".

Complete text of Ordinance No. 1616 will be found in Ordinance Book No. 11 at page 92.

RESOLUTION NO. 86-206 - RESOLUTION APPROVING PAYMENTS TO SUTTON-KENNERLY ASSOCIATES FOR ADDITIONAL ENGINEERING SERVICES IN CONNECTION WITH RE-ROOFING OF THE CIVIC CENTER, FIRE STATION #8/LIBRARY/EAST ASHEVILLE COMMUNITY CENTER AND THE ASHEVILLE TRANSIT AUTHORITY FACILITY

7. Consideration was given to a resolution approving payments to Sutton-Kennerly Associates for additional engineering services in connection with re-roofing of the Civic Center, Fire Station #8/Library/East Asheville Community Center and the Asheville Transit Authority facility.

Mayor Bissette said this resolution will authorize the Mayor to execute amendments to the contracts by and between the City of Asheville and Sutton-Kennerly Associates for the provision of additional engineering services. Total sum of fiscal impact is $11,781.18.

Civic Center	$7,590.00
Station #8/Library/Comm. Center	2,528.00
Transit Authority Facility	1,663.18

Mayor Bissette said members of Council were previously furnished copies of the resolution and it would not be read in its entirety. He said any individual desiring a copy of the resolution would be furnished a copy.

Upon motion of Councilman Tisdale, seconded by Vice-Mayor Frank, Resolution No. 86-206 was unanimously adopted.

Complete text of Resolution No. 86-206 will be found in Resolution Book No. 16 at page 197.

APPROVAL OF SIGN PERMIT - IDENTIFICATION SIGN AT 45 CHERRY STREET

8. Consideration was given to a motion approving a sign permit for an identification sign at 45 Cherry Street.

Mayor Bissette said Crawford Sign Company has requested a sign permit to erect an identification sign at 45 Cherry Street advertising "45 Cherry". This sign requires approval of City Council pursuant to the zoning ordinance in that the sign will be situated closer than 600' of a limited access highway.

Mayor Bissette said this budget ordinance amendment is relative to improvements based on recommendations by the Parks and Recreation Department Director to City Council regarding the West Asheville Recreation Center.

Mayor Bissette said as agreed in the Pre-Council work session, this budget amendment would appropriate $40,000 for improvements to the West Asheville Community Center. He said the improvements would be made only in areas now being utilized for the City Parks and Recreation Department, and will not involve the library portion of the building. He said the funds also will be used to increase parking at the rear of the building.

Councilman Bratton noted that it is her understanding that the appropriation of these funds is not a final distribution of funds to be used in the West Asheville Recreation programs. She said she felt there should be a review of the entire Parks and Recreation budget.

Mayor Bissette said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety and any individual desiring a copy of the ordinance would be furnished a copy.

Ralph Bishop was furnished a copy of the budget ordinance amendment.

Councilman Boland moved for the adoption of Ordinance No. 1615. This motion was seconded by Councilman Price.

On a roll call vote of 6-0, Ordinance No. 1615 passed on first and final reading.

Complete text of Ordinance No. 1615 will be found in Ordinance Book No. 11 at page 91.

ORDINANCE NO. 1616 - BUDGET ORDINANCE AMENDMENT TO PROVIDE FUNDS FOR THE ESTABLISHMENT OF A MINORITY BUSINESS LOAN POOL

6. Consideration was given to a budget ordinance amendment to provide funds for the establishment of a Minority Business Loan Pool.

Mayor Bissette said this budget ordinance will appropriate $5,000 which will be used as a contribution to the Asheville-Buncombe Development Corporation on behalf of the Asheville Minority Business Loan program. The loan program will be administered by the Cherokee/Asheville Business Development Center. Revenue source will be UDAG loan repayment funds.

Councilman Boland said that he had been working with the Asheville Minority Business Development Center for a number of years to establish a minority business loan pool. He said the loan pool would be established by the Asheville-Buncombe Development Corporation and would be administered by the Cherokee/Asheville Business Development Center. He said the purpose of the loan pool would be to provide modest amounts of business credit to minorities with a low market interest rate. He said it is hoped that $10,000 - $15,000 would be put into the loan pool along with matching grants. He said the Asheville-Buncombe Development Corporation, Wachovia Bank, First Union Bank and North Carolina National Bank has committed $1,000 to the loan pool. He said First Federal and Asheville Federal is also considering committing $1,000. He said no funds would be spent out of the loan pool until all funds are in place.

RALPH BISHOP - LOTTERY SALES IN THE CITY OF ASHEVILLE

13. Ralph Bishop again spoke to members of Council relative to the Asheville Police Department and lottery sales in the City of Asheville.

ADJOURNMENT

Upon motion of Councilman Tisdale, seconded by Councilman Boland, the meeting adjourned at 5:20 p.m.

Mayor

City Clerk

Verl Emrick, Director of Planning, said the requested sign complies with all criteria of the sign ordinance.

Councilman Tisdale moved to approve the sign permit for the identification sign at 45 Cherry Street. This motion was seconded by Councilman Bratton and carried unanimously.

SCHEDULING PUBLIC HEARING - SITE PLAN OF THE PROPOSED CONVERSION OF EXISTING HOUSE AT CHARLOTTE STREET AND HILLSIDE WALK (108 ORCHARD STREET) FOR DECEMBER 2, 1986

9. Councilman Price moved to schedule a public hearing relative to a site plan of the proposed conversion of an existing house at Charlotte Street and Hillside Walk (108 Orchard Street) for December 2, 1986. This motion was seconded by Councilman Boland and carried unanimously.

CLAIMS - SANDERS ROLAND (SEWER) - MIKE BENNETT (STREETS) - WALTER SMITH (PARKS) - CAROLYN TAYLOR (WATER) - JERRY BRADLEY (WATER)

10. The City Manager presented claims received from Sanders Roland, Mike Bennett, Walter Smith, Carolyn Taylor, and Jerry Bradley.

Mayor Bissette referred the claims to the Corporation Counsel for investigation and recommendation.

REQUEST OF IRMGARD GORDOS - CLAIM

11. Irmgard Gordos, of 61 Bingham Road, Apartment 7-C, spoke to members of Council relative to a claim for damages presented to the City of Asheville. She said she had hit a pothole which damaged her car. She said she had been in contact with the City's Legal Department, the Street Department, and Nationwide Insurance Company. She said the insurance company for the City of Asheville claims the City of Asheville is not negligent. She said Asheville Alignment Service would not state that the hitting of the pothole would cause the damage done to her car. She said she felt if the streets were in good condition, this would not have happened. She requested that Council look into the matter and refund her the cost of repairing her car in the amount of $127.04. After discussion, Mayor Bissette directed the City Manager and City Attorney to look into this matter further and to report their findings back to Mrs. Gordos.

DISCUSSION - HARRY BRUMMER - 10 SUNSET SUMMIT - SPIVEY MOUNTAIN PROJECT

12. Harry Brummer spoke to members of Council relative to the injustice done to him relative to the construction of his house at 10 Sunset Summit. He requested that the City Council members take action to reissue his building permit for 10 Sunset Summit.

Mayor Bissette said because this matter is in the courts, members of Council would confer with the City Attorney on this matter.

Mayor Bissette informed Mr. Brummer that the City of Asheville has no jurisdiction relative to his project on Spivey Mountain. He said the Asheville-Buncombe Water Authority would have jurisdiction relative to the water being furnished to the project and Buncombe County would be responsible for providing sewer services.

Complete text of Resolution No. 86-207 will be found in Resolution Book No. 16 at page 198.

RESOLUTION NO. 86-208 - RESOLUTION AUTHORIZING THE MAYOR TO SEND A LETTER NOTIFYING THE NORTH CAROLINA DEPARTMENT OF ADMINISTRATION, STATE DIVISION OF PURCHASE AND CONTRACT, OF THE INTENT OF THE CITY OF ASHEVILLE TO PARTICIPATE IN THE NORTH CAROLINA STATE CONTRACT FOR TIRES AND TUBES

3. Consideration was given to a resolution authorizing the Mayor to send a letter notifying the North Carolina Department of Administration, State Division of Purchase and Contract, of the intent of the City of Asheville to participate in the North Carolina State contract for tires and tubes.

Mayor Bissette said this resolution is to authorize the Mayor to execute a notice of intent with the North Carolina Department of Administration, State Division of Purchase and Contract for tires and tubes.

Mayor Bissette said members of Council were previously furnished copies of the resolution and it would not be read in its entirety. He said any individual desiring a copy of the resolution would be furnished a copy.

Upon motion of Councilman Boland, seconded by Councilman Price, Resolution No. 86-208 was unanimously adopted.

Complete text of Resolution No. 86-208 will be found in Resolution Book No. 16 at page 199.

RESOLUTION NO. 86-209 - RESOLUTION PROVIDING FOR THE ISSUANCE OF $4.8 MILLION STREET AND SIDEWALK BONDS SERIES 1986

4. Consideration was given to a resolution providing for the issuance of $4.8 million Street and Sidewalk Bonds Series 1986.

Mayor Bissette said this resolution sets forth the details of the bonds as required by N. C. General Statutes 159-65. The sale of these bonds will provide funds for street and sidewalk improvements.

The City Manager said the reason for the $4.8 million being issued is that the new tax bill has a $10 million limit on the amount of bonds a municipality can sell in any one year and still be termed a "small issuer". He said the necessity of staying a small issuer is due to the fact that in order for banks to purchase these bonds and still have the advantage of tax free interest, a local government must issue less than $10 million in any one calendar year. He said by staying under the $5 million limit the City would be exempt from arbitrage requirements.

Mayor Bissette said members of Council were previously furnished copies of the resolution and it would not be read in its entirety. He said any individual desiring a copy of the resolution would be furnished a copy.

Upon motion of Vice-Mayor Frank, seconded by Councilman Price, Resolution No. 86-209 was unanimously adopted.

Complete text of Resolution No. 86-209 will be found in Resolution Book No. 16 at page 200-222.

Tuesday - November 18, 1986 - 4:00 p.m.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Mary Lloyd Frank; Councilmen Wilhelmina Bratton, Walter R. Boland; Kenneth M. Michalove, Norma T. Price, and George M. Tisdale; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and City Clerk William F. Wolcott, Jr.

Absent: None

INVOCATION

Councilman Michalove gave the invocation.

APPROVAL OF THE MINUTES - NOVEMBER 11, 1986 MEETING

1. Consideration was given to the approval of the minutes of the November 11, 1986, meeting.

Councilman Bratton requested that the minutes be amended relative to her statement concerning Ordinance No. 1616 adding the following sentence, "She said it was her understanding that qualifying individual minorities would be given $2,000 from the Minority Loan Pool in an effort to assist them in establishing minority businesses. She said she felt this amount would not be sufficient for anyone to start a business but would only create problems for the individual."

Mayor Bissette announced the approval of the minutes as amended.

RESOLUTION NO. 86-207 - RESOLUTION AUTHORIZING SUBMISSION OF AN AMENDED STATEMENT OF COMMUNITY DEVELOPMENT OBJECTIVES AND PROJECTED USE OF FUNDS TO THE U. S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

2. Consideration was given to a resolution authorizing submission of an amended statement of community development objectives and projected use of funds to the U. S. Department of Housing and Urban Development.

Mayor Bissette said the amended statement of objectives proposes to use additional CDBG funds from HUD for the following purposes: 1) Housing Rehabilitation Revolving Loan Fund, $102,000; and 2) Neighborhood Housing Services Project, $80,000. CDBG Revenue will be increased by $182,000.

Marvin Vie[illegible], Community Development Director, said the Housing Rehabilitation Revolving Loan Fund was set up in 1981 and has been very successful. He said twenty-eight loans were approved last year and two applications are now pending. He said if the two applications now pending are approved, the current rehabilitation loan funds would be depleted.

Mayor Bissette said members of Council were previously furnished copies of the resolution and it would not be read in its entirety. He said any individual desiring a copy of the resolution would be furnished a copy.

Upon motion of Councilman Tisdale, seconded by Councilman Michalove, Resolution No. 86-207 was unanimously adopted.

STATE OF THE CITY MESSAGE
MAYOR LOUIS BISSETTE
THURSDAY, NOVEMBER 13, 1986

Members of the Asheville Rotary Club, Guests and Citizens of Asheville. I appreciate very much the opportunity to be here today to present this formal report on the condition of our City. This is the second annual State of the City Message and I hope it will become a tradition in the future.

I intend, today, to report to you on the condition of the City and discuss with you the problems, progress and prospects of our City, as seen from the Mayor's Office. I will attempt to structure this report as follows:

1. Financial Condition
2. Infrastructure
3. City Government
4. Economic Development
5. Downtown
6. City-County Relations
7. Community Relations
8. Asheville's Future

Before I begin my report, I would like to address what I consider to be one of this Council's most outstanding achievements. Last year, when Mayor McDevitt delivered his State of the City Address, the City of Asheville was without a city manager. Larry McDevitt reported that the City Council was still working to find the right person to be our City Manager. Ladies and Gentlemen, I am pleased to be able to report to you today, that we found the right person when Doug Bean agreed to accept the position of Asheville City Manager in May of this year. We have had the opportunity to work with Doug for over six months and I can report to you that he is a true professional in every respect. During the last three years, I have had the opportunity to meet a number of city managers from across this State, and Ladies and Gentlemen, if I could have my choice of any city manager in the State of North Carolina, that choice would be Doug Bean.

1. Financial Condition. The financial condition of the City of Asheville is excellent. Our expenditures are within our resources. Our debt is very low, and our unfunded liabilities are being liquidated. In the past six years, the City has made substantial cuts in personnel and other areas in order to balance our operational budget. There is little fat left in that budget. City Council, this year, for the first time in 5 years, voted to increase the property tax rate by two cents per hundred in order to maximize existing service levels. If you take Asheville's property tax revenue for the 1981 thru 1985 period and adjust that for inflation, you will find a slight downward trend. This analysis suggests that the average Asheville taxpayer paid slightly less in terms of purchasing power on his or her 1985 property taxes than he or she paid in 1982. The City's net bonded per capita debt has declined consistently since 1976. Presently, our per capita debt is approximately $70.00. Charlotte's 1985 per capita debt is $722, High Point - $494, Winston-Salem - $442, Durham - $417. Our current bonded debt is $10.4 million, including the Water Fund. Our current debt capacity as limited by North Carolina law is $130 million or 27 times our current net debt. Even with

BIDS - FIREFIGHTING EQUIPMENT AND ACCESSORIES FOR THE FIRE DEPARTMENT

5. Consideration was given to a motion relative to bids received to furnish firefighting equipment and accessories for the Fire Department.

Mayor Bissette said sealed bids were invited to furnish firefighting equipment and accessories for the City's Fire Department. Equipment and accessories include 1-1/2" and 2-1/2" fire hose; booster hose; foam eductors; portable monitors; assorted nozzles and connections. Ten (10) bids were received. Fire hose will be purchased from Mark VI, Inc., Asheville, N.C., in the amount of $13,535.00; booster hose will be purchased from Supply Specialities, Inc., Asheville, N.C., in the amount of $1,194.00; leader line and siamese fittings from Fire End & Croker Corporation, Elmsford, N.Y., in the amount of $602.00; valves, nozzles, eductors and monitors from Action Fire & Safety, Inc., Charlotte, N.C., in the amount of $5,672.58; and suction siamese fittings and turbo-jet nozzles from Harold's Sales & Service, Marietta, Georgia, in the amount of $2,106.60. Funds totaling $23,110.18 have been appropriated in the F.Y. 86/87 budget.

Mayor Bissette noted that several of the low bids had not been accepted because the bidder was nonresponsive to the City's specifications.

Councilman Boland moved to approve the bids for the firefighting equipment and accessories as recommended by the Purchasing Director. This motion was seconded by Councilman Tisdale and carried unanimously.

SCHEDULING PUBLIC HEARING - TREE ORDINANCE

6. Vice-Mayor Frank moved to schedule a public hearing relative to the adoption of a proposed tree ordinance for November 25, 1986. This motion was seconded by Councilman Price and carried unanimously.

PROPOSED ORDINANCE RELATIVE TO PROHIBITING TRUCKS IN RESIDENTIAL AREAS SCHEDULED FOR NOVEMBER 25, 1986

7. Mayor Bissette noted that City Council would take action on a proposed ordinance to prohibit trucks on certain residential streets at its meeting on November 25, 1986.

EQUAL EMPLOYMENT OPPORTUNITY TASK FORCE WORK SESSION SCHEDULED

8. Mayor Bissette noted that members of Council had scheduled an Equal Opportunity Task Force work session relative to a proposed Affirmative Action Plan for the pre-Council work session on November 25, 1986 at 3:00 p.m.

STATE OF THE CITY ADDRESS - MAYOR BISSETTE

9. Mayor Bissette requested that the following State of the City Address given on November 13, 1986 be made a part of the minutes:

remains is the rehabilitation and extension of the existing collector lines and interceptors. In December of last year, a letter of intent was signed by the City, the County and MSD to provide a framework for addressing this rehabilitation problem. This letter of intent provides for consolidation of all of the existing connector lines and interceptors in Buncombe County under the authority of the Metropolitan Sewage District. It is proposed that a ten year rehabilitation program be initiated by MSD to bring our sewage collection system up to an acceptable level. Since that letter of intent was signed by the City, the County and MSD, it is my understanding that most, if not all of the other municipalities and independent sewage collection districts, have agreed to this proposal in principal. A Draft Agreement has been prepared and is being reviewed by MSD's Bond Counsel and the various governmental units. I remain very hopeful that this agreement can be completed in the near future in order that this extremely important rehabilitation program can begin.

In the meantime, the City of Asheville has continued to rehabilitate its collector system according to a master plan. In the past year, significant rehabilitation projects have been completed, including Haw Creek, Four Mile Creek in South Asheville, South Charlotte Street and Beverly Road. The City of Asheville intends to continue to address the problems within its city limits, but I believe that the County-wide problem must eventually be addressed by a united effort.

(c) Storm Sewers. Our storm sewer system continues to cause serious problems throughout our City. As you are aware, many of our storm sewers were installed in the 1920's. They were installed by private developers and are located in many instances, on private property. We have, during the past year, entered into a storm water modeling study with the U.S. Department of Interior at a total cost of approximately $300,000.00. When this study is completed, the City can begin to address this problem over a multi-year period to bring our storm sewer system up to an acceptable level.

(d) Streets and Sidewalks. The people of this City in September voted by an overwhelming majority to authorize the issuance of $17 million in street and sidewalk bonds. These bonds will permit us to rehabilitate approximately 175 miles of our street system and approximately 69 miles of our sidewalk system to the City of Asheville. We intend to issue approximately $6 million of these bonds in December of this year. Construction will begin in the spring of 1987. It is the City Council's responsibility, now that the people have authorized these funds, to be certain that the projects are properly engineered and constructed in a cost effective manner. We must have proper engineering up front which addresses drainage problems and we must see to it that the projects are coordinated with State and Federal road and bridge projects, water and sewer projects and private utility projects. This City Council intends to insure that the people of this City receive the very highest value for the funds generated by these bonds. We currently project that all of the street and sidewalk projects can be completed within four years.

The City of Asheville is currently scheduled for almost $25 million in new state road projects over the next few years. These include:

(1) The widening of U. S. 25 (Hendersonville Road) from Interstate 40 to the Blue Ridge Parkway;

(2) The widening of Broadway from I-240 to U. S. 19 & 23;

the issuance of the entire $20 million in General Obligation Bonds which were authorized by the people of this City in September, our debt capacity will be almost twelve times our current net debt at the end of 1991.

The City of Asheville's unfunded liabilities, which consist primarily of the Asheville Policeman's Pension Disability Fund, are being liquidated rapidly at an annual cost to the City of approximately $600,000.00. This Police Pension Plan was established in 1939, but was never properly funded until 1976, when the City Council undertook to fund this pension plan on an actuarily sound basis. I am happy to report to you today that the Police Pension Task Force, which was appointed by the City Council in the spring of this year, has recommended a long term solution to this serious problem. This Task Force, consisting of the Mayor, the Vice Mayor and Councilman Norma Price, as well as active members and retirees under the Plan is recommending a proposal which would:

1. Guarantee that no plan member or retiree would receive any less in benefits than they are now entitled to receive under the present plan;

2. Entitle members and retirees to become participants in the North Carolina Local Government Employees' Retirement System, which would permit them to receive cost of living increases in their pensions, which is not available under the present plan;

3. Reduce the City's annual contribution level by almost $300,000.00. This proposal has been unanimously recommended to the Asheville City Council and to the participants in the Asheville Police Pension Plan. Those participants will vote on the proposal in December. This is not a matter that has received great publicity in recent years, but is one which has continued to cloud our City's financial picture and which has also failed to provide adequate benefits to participants in the plan. I hope and believe that this problem can be solved once and for all by the adoption of the Task Force's recommendations.

2. Infrastructure

(a) Water. Although our current water sources and delivery systems are inadequate to meet Buncombe County's future requirements, the Asheville-Buncombe Water Authority is making significant progress and has already initiated substantial improvements to the Bee Tree/North Fork Reservoir System. In the drought conditions that existed in our area during the summer of 1986, the City of Asheville was never in serious trouble. In fact, for a time, we were selling water to our sister communities in Woodfin and Weaverville. Our situation will be further strengthened when the Bee Tree Reservoir is added to the system later this month.

(b) Sanitary Sewer System. Our sanitary sewer system continues to suffer from serious deterioration. As you are aware, our system is old, it leaks into our lakes and streams and it permits tremendous amounts of ground water to infiltrate the system and overcome the sewage treatment facilities on the French Broad River. When this happens, the treatment plant must be bypassed and the effluent dumped directly into the river. An expansion of the treatment plant is already under way under the direction of the Metropolitan Sewage District. This will solve a part of the problem. The problem that

Alternatives are currently being prepared for major repairs and/or renovations to the City Hall and the Municipal Building. In addition, we are exploring the concept of a joint City-County law enforcement and fire administration facility. The City is also proceeding with the renovation of the Hunt-Hill Central Warehouse facility, which will permit us to centralize our purchasing and warehousing functions and save the City thousands of dollars on an annual basis. The City of Asheville currently has fourteen separate warehousing facilities, which represents an extremely inefficient system. Our estimates indicate that the new centralized purchasing and warehousing facility will save the City approximately $50,000.00 per year. We hope to be in this facility by the spring of 1987.

I believe that the City of Asheville has made significant progress in the past several years to address its infrastructure problems. Although we are certainly not out of the woods, I believe that we have identified our problems and are making realistic long-range plans to deal with those problems.

3. City Government. The City Government's first and foremost obligation is the protection of the lives and property of its citizens.

Serious crimes have increased in our City during the first half of 1986 by 12.3% over the same period in 1985. Although the number of murders, rapes, and robberies have remained essentially level, we have experienced increases in aggravated assault, burglary and larceny. Although this is an unacceptable increase, I would point out that the core cities of Charlotte, Fayetteville, Greensboro, Raleigh, Wilmington and Winston-Salem averaged a 14% increase over the same period. The City Council and your Police Department are concerned about this increase and we must redouble our efforts in crime prevention during the coming months. Your Police Department with 134 officers, provides protection for the lives and property of 60,000 Ashevillians 24 hours a day, 365 days a year. This is not an easy task. The police officer in many instances must be all things to all people. I believe, however, that we have a police force in the City of Asheville of which you can be very proud.

Our Fire Department continues to distinguish itself in both the areas of firefighting and fire prevention.

The men and women of our Fire Department are dedicated public servants who also protect the lives and property of our 60,000 citizens 24 hours a day, 365 days a year.

A new Fire Chief has joined our department this month. Chief John Rukavina has a distinguished educational background and record as a fire-fighter. He comes to us from St. Joseph's, Missouri, where he served as Fire Chief and most recently as Acting City Manager.

Our other City employees, including those in our Public Works Department, our Sanitation Department, our Water and Sewer Department, our Parks and Recreation Department, our Planning Department, and our Inspections Department who keep this City running on a day-to-day basis deserve our appreciation and our respect. There are many very difficult jobs in City Government. Every day our Sanitation workers are in the streets collecting and disposing of thousands of tons of refuse. This job must be done every day in all kinds of weather. Our Water and Sewer workers are out every day repairing broken lines in all kinds of weather, many times working all night to be certain that water and sewer service to our citizens is not disrupted. During

(3) The widening and improvement of the Leicester Highway;

(4) The Sweeten Creek and I-40 interchange.

(5) N.C. 191 and I-40 interchange (Farmers Market);

(6) Substantial improvements to the interchange located at I-240 and Merrimon Avenue;

(7) The widening and improvements to McDowell Street from Southside to the McDowell Street Bridge;

(8) The widening and improvement of North Louisiana Avenue;

(9) I-240 improvements from U.S. 19 & 23 to Charlotte Street.

We are also scheduled for almost $15 million in bridge replacement projects between now and 1989. These include:

(1) Smoky Park Bridge;

(2) The McDowell Street Bridge;

(3) The Smith Bridge over the French Broad River;

(4) The Chestnut Street Bridge.

Other significant improvements scheduled to begin in the next few years include improvements to U.S. 74 and U.S. 70 intersection at the Asheville Mall and the installation of new computerized traffic signal equipment in the Downtown Business District.

In summary, the drivers of this City are going to have to display a great deal of patience during the next few years. However, when these improvements are completed, our street and sidewalk system should be in excellent condition as the City enters the decade of the '90's. It will be the responsibility of future Councils to see to it that this refurbished system is properly maintained in the years to come.

(e) Municipal Buildings. Although a city's main purpose for existence is to render governmental services to its people, much of a city's wealth is invested in its physical assets, such as streets, utility systems, buildings and equipment. Continuing maintenance and replenishment of the City's investment in its capital assets is a requirement for good stewardship of the public trust. Maintenance of these assets is also essential for daily operational efficiency and effectiveness. Some of our major city facilities are in need of major repairs and renovations. The City Hall, although attractive from the exterior, is highly inefficient, particularly from an energy point of view. We are also under an order from the State of North Carolina to install an additional stairwell in the building to meet the State's highrise fire codes. The Municipal Building, which houses our Fire and Police Departments, is simply not adequate to meet the needs of our modern fire and law enforcement agencies. Our present Street and Sanitation Barn on South Charlotte Street is inadequate for equipment storage and administration. These buildings have been neglected for many years and are in desperate need of renovation or replacement.

and a strengthened erosion control ordinance. In addition, the Council will soon consider a tree ordinance and a truck ordinance which would prevent the unwarranted use of neighborhood streets for commercial purposes. I believe these ordinances are reasonable. They have been developed during a long public hearing process which has included input from individuals as well as representatives of business and development interests. These ordinances are not overly restrictive, but they do prevent unreasonable and uncontrolled development, particularly on our mountain ridges.

On the other hand, we are taking action to make quality development in the City of Asheville easier by limiting the red tape required of developers. This month, we will institute a one-stop permit system for developers. This system has been developed under the direction of our City Manager, but with substantial input from representatives of the Board of Realtors and the Home Builders Association. This system will hopefully prevent the unnecessary delays and confusion which developers have too often experienced in the City in the past.

5. Downtown. Why should you and your City government be interested in the Asheville Central Business District? I believe we should be interested because Asheville's downtown is the heart of our community. Asheville's downtown should be important to you if you live in Biltmore Forest, Woodfin, Candler or Fairview. When you visit another community, how do you develop your impression of that community? You get your impression probably from the downtown area. If the downtown is thriving and economically viable, chances are your impression of that community is going to be positive. If the downtown is dead, with vacant store fronts and poorly maintained structures, I believe your impression of the entire community will be negative.

If you have been in downtown Asheville lately, you have probably noticed some significant changes. Phase I of the Wall Street Development is nearing completion. The Haywood Park Hotel has been completed, and the Haywood Promenade is nearing completion. The apartment units of 66 Haywood should be ready for occupancy soon, and I understand that most of them have been rented. The Preconstruction Conference for the Pack Plaza Project was held last week and construction should begin within a matter of days. Wick & Greene held their grand opening yesterday and the Greene's are already beginning Phase II of their Project. The old Lincoln Mercury building on Market Street is currently being renovated by the Van Winkle law firm. A renovated S & W building will reopen as a cafeteria and delicatessen in December of this year. The new Post Office building is under construction and should be completed by early spring. The general accounting office is planning an $8 million renovation to the Grove Arcade building. Construction should begin in late 1987 and plans call for a restoration of the original exterior of the building. The old Asheville Hotel and the old Penney's Building on Haywood Street have been purchased by developers, and plans are under way for the eventual renovation of those structures. In the downtown fringe areas, new office condominiums are being constructed along the expressway and on Orange Street. Robert Mayhew has renovated the old Allen Center into an office park. Hunter Banks Company has just completed the renovation of the building at the head of Montford. The Chamber of Commerce is planning a significant expansion of their facilities, and the YMCA addition is currently under construction.

The City has strongly supported the revitalization of downtown and is working with developers, merchants and property owners to develop adequate parking and other public improvements to assure the success of the downtown

one of the coldest periods last winter, we had a major water main break and Water Department personnel worked continuously in subfreezing weather for 36 hours until service was restored. All of our City Employees have my respect, and I believe they should have yours as well.

The Parks and Recreation Department last year provided a wide range of programs for practically all of our citizens. Young, middle-aged, and elderly - I believe most of you would be amazed at the number of programs which are offered through our City Parks and Recreation Department. In addition to the Parks and Recreation staff who organize and supervise these programs, over 2,500 volunteers participated in our City Parks and Recreation programs in 1985.

In my opinion, the general morale of our employees is excellent, and I am satisfied that we have a group of competent and dedicated people working for the City of Asheville. We continue to make every effort to improve our training, and we are in the process of implementing a merit pay system for the first time in the City of Asheville.

4. Economic Development. Our tourism industry in the City of Asheville is thriving. The room tax and the creation of the Tourism Development Authority have provided a tremendous boost for tourism in our area. The number of motel rooms available in Asheville has increased significantly in recent years and the announcement of the expansion of the Grove Park Inn should make Asheville a tempting location for an ever increasing number of conventions. Our festivals, such as Bele Chere, Light Up Your Holidays, Riverfest and the Biltmore Village Festival are growing by leaps and bounds. They are extremely important in attracting tourists to our area, and the City is proud to participate with the private sectors in these programs.

The outlook for manufacturing in the City of Asheville is not as bright. We have lost over 2,000 manufacturing jobs during the past two years. We have had very few announcements recently of major plant relocations to our area. I am concerned about this problem, but I am encouraged by the upcoming Economic Summit which is being sponsored by the Asheville Area Chamber of Commerce and the University of North Carolina at Asheville. The effort will bring together our community's most talented and creative minds in the fields of business, education and government. These individuals will attempt to map a new direction for our economic development efforts. There is tremendous competition these days for economic development. Greenville, Spartanburg, Charlotte, and the Tri-Cities area are all competing directly with us in the economic development area. Our competitors are spending tremendous sums of money and are in many instances out-stripping our efforts. We must identify our strengths and develop a long-range plan for attracting new industry to our area. We have a great many assets which we can bring to bear in our economic development efforts, including the more effective utilization of a growing and vibrant UNC-A. Tourism is important, but we must balance tourism with diversified manufacturing and service sector growth.

In regard to growth, I believe we are making progress in encouraging quality development in the City of Asheville. The Alternatives For Asheville process is moving towards completion. If there is one lesson to be learned from Alternatives For Asheville, it is that the people of this City want growth and development, but they want quality growth and development. The City Council has already taken action on many fronts, including the recent passage of a ridge protection ordinance, a buffering ordinance, a hillside ordinance

process which made it a reality. The water agreement has served as the basis for cooperation between the City and County in many areas, and I feel that we must be very cautious in advocating substantial modifications.

7. Community Relations. I believe that there is an excellent spirit of cooperation and goodwill among the various segments of our Asheville community. We have developed a great deal of pride in our City, and I believe that the rise of neighborhood involvement through neighborhood associations is contributing greatly to that spirit. The Coalition of Asheville Neighborhoods represents neighborhood associations in Montford, Kenilworth, Beverly Hills, Grove Park, and Haw Creek. In recent months, I have seen these associations effectively assist the City by constructively addressing potential problems that affect their neighborhoods. The expansion of the Grove Park Inn, both during construction and afterward, will have a significant effect on the Grove Park-Sunset area. The Grove Park-Sunset Association addressed these potential problems in a constructive manner, and through cooperation with the City and the Grove Park Inn, reasonable quidelines were developed to assist both the neighborhood and the Grove Park Inn. A committee consisting of members of the City staff, the Grove Park-Sunset Association and the Grove Park Inn has been formed to address problems which most certainly will arise during construction. In addition, the Montford Association has been extremely active for over a year in assisting the City with the Montford Redevelopment Plan. This plan is almost complete and the City Council has allocated over $700,000 in community development funds for the redevelopment of this very important and historic Asheville neighborhood.

In the past few months, a serious concern has been voiced by members of our black community over the hiring and promotion practices of the City of Asheville. This discussion has focused most recently on our Police Department. It is a fact that the number and rank of our black officers do not adequately reflect our population makeup. For example, there has never been a black police officer in the City of Asheville above the rank of sergeant. This is unacceptable to the black community, and it is unacceptable to me. It is not, however, a simple problem. Qualified black police officers, as well as teachers, firefighters and other professionals are in tremendous demand. I do not believe that the current situation in our Police Department and other City departments has come about because of any systematic form of racial discrimination. It has come about, however, because in many instances we have not made a sufficient effort to recruit qualified blacks into our system. This City Council intends to increase that effort. We are currently reviewing a new affirmative action plan prepared by the City Manager, which when adopted, must be more than just another document to place in our files. It must be a working document which will bring about fair results. In addition, we can and must develop effective recruiting plans to attract qualified blacks into our City government. Here again, this plan must achieve results and not just serve as another well-written document for our files.

Thirdly, we are currently reviewing, with the assistance of the North Carolina Institute of Government, our civil service system. We are one of the few remaining North Carolina cities which operate under a civil service system. This system must be reviewed to see if the civil service law itself has contributed to our problem. If it has, then we shall seek to have the legislature modify our civil service system.

We are not talking about quotas, we are talking about fairness. Young blacks, just like young whites, need role models and qualified blacks in city

revitalization effort. New parking garages are a part of the Pack Plaza Project, the Wall Street Project, and Haywood Promenade, and the City is committed to a new parking structure on Rankin Street. These garages have been designed with an eye towards aesthetics and usability. They are much smaller in size than our existing municipal parking garage and should afford parkers easier and more acceptable ingress and egress. In conjunction with these efforts, the City is currently seeking input from parking consultants and downtown merchants to provide a workable parking strategy for downtown Asheville. Our current parking system is inadequate in many respects, and I believe that we can do a much better job of providing parking in our downtown business district. Asheville is the only major city in the State of North Carolina which consistently loses money annually on its parking operations. This must and will change as the revitalization process continues.

In addition, Lexington Park continues to improve and the proposed Pack Place Education, Arts & Science Center should be a tremendous asset to our downtown revitalization efforts. The people of the City have expressed their support of this project by voting $3 million in General Obligation Bonds for this project. These bonds, however, will not be issued until funding for the entire project is achieved from the private sector and other governmental agencies. Estimates of the cost of the total project are in excess of $7 million.

The effort to revitalize our downtown is succeeding because of the broad based support which it has received from the City government, the County government, our business leaders and the people of this City. Input into downtown revitalization is being broadened by the creation of a restructured downtown commission and a broad based downtown association. I believe that with the continued involvement and cooperation of all sectors, a revitalized downtown Asheville will be a reality in the very near future.

6. City-County Relations. Your City and County governments are continuing to meet and discuss problems of mutual concern. This City Council and the County Commissioners formed an inter-governmental committee which is meeting on a monthly basis to discuss matters of mutual interest and concern. We have cooperated effectively in downtown revitalization projects; the joint mapping program; the proposed agreement for the rehabilitation of our sanitary sewer systems; disposition of tax lots; airport development; and economic development.

We are currently discussing the possibilities of a joint purchasing and warehousing system; and a joint law enforcement facility. I am hopeful that in the months to come, we will also be able to cooperate in a joint program for the development of the French Broad River.

One area of concern between us currently is the water agreement. There have been some comments regarding possible changes to this agreement. Your City Government is, of course, willing to discuss areas of concern to the County, but we feel that any changes should be approached very cautiously. I believe the water agreement on the whole has worked effectively for the people of both the City and the County. It is my opinion that the water agreement was developed over a period of years through a long negotiation process, and changes in one area may require additional adjustments in other areas to balance the agreement. In recent weeks, both the City Council and the County Commissioners have worked diligently to familiarize themselves, not only with the details of the water agreement itself, but also with the long negotiating

GRAY HUTCHISON, INC. - AUTHORIZATION TO IMPLEMENT EMPLOYEE'S FLEXIBLE BENEFITS PLAN

10. At the request of the City Manager, Councilman Price moved to authorize the City Manager to execute a contract with Gray Hutchison, Inc. to serve as advisors for the implementation of the Employee's Flexible Benefits Plan. The contract amount to be $10,000. This motion was seconded by Councilman Michalove and carried unanimously.

REPORT RELATIVE TO INTERGOVERNMENTAL SERVICES COMMITTEE

11. Vice-Mayor Frank noted that the Intergovernmental Services Commmittee met on November 18, 1986, at 12:30 p.m. with full attendance. She said the members discussed the proposed 911 emergency number and was informed that the State Utilities Commission is currently mailing letters and inquiries to concerned entities for their input for continuing costs. She said the State Utilities Commission should reach a decision relative to these costs in about 30 days.

She said they discussed the consolidation of the central purchasing warehouse facility and a resolution from the County should be forthcoming in the near future. She said they also discussed the joint problem of space for the West Asheville Community Center Library. She said the County Commissioners requested more information relative to this subject. She said the members again indicated a need for a separate work session relative to the Water Agreement. She said the next meeting of the Intergovernmental Services Committee would be on December 2, 1986, at 12:30 p.m. in the Council Conference Room.

Councilman Tisdale said the Intergovernmental Services Committee also discussed proposed amendments relative to the Massage Ordinance. He requested that the City Attorney and County Attorney work together on any changes proposed for the ordinance.

REQUEST OF LEAGUE OF WOMEN VOTERS - ENDORSEMENT OF LEAGUE WOMEN VOTERS FOR FUNDS FROM THE EXXON SURPLUS FUNDS FROM THE NORTH CAROLINA DEPARTMENT OF COMMERCE

12. Vice-Mayor Frank said the League of Women Voters in Asheville and Buncombe County have requested that the Asheville City Council endorse a proposal by the League of Women Voters to receive funds for a coordinated recycling program in the amount of $40,000 and an energy and resource conservation education program in the amount of $35,000 from the North Carolina Department of Commerce. She said the funds would be allocated from the $47 million to be received by the North Carolina Department of Commerce from the Exxon Corporation.

Vice-Mayor Frank moved to authorize the Mayor to send a letter of endorsement to the North Carolina Department of Commerce relative to the League of Women Voters' request. This motion was seconded by Councilman Price and carried unanimously.

government to provide those role models. We can and must achieve results because it is the right thing to do and because it is a problem that will not go away.

The Asheville-Buncombe Community Relations Council has been extremely effective in many areas over the past year. The Asheville Fair Housing Committee has been established and the Community Relations Council was extremely helpful in quieting community concerns when the Ku Klux Klan chose to march in Asheville last summer. This was a potentially explosive situation which was calmly addressed by all segments of our population. The Klan came, marched and left without incident and without publicity, which was exactly what they did not want to happen.

The City Council, also with the assistance of the Mayor's Committee for the Employment of the Handicapped, approved a new handicapped off-street parking ordinance which is serving as a model for the rest of the State.

8. The Future. I believe that the potential of this community is unlimited. In some ways, the recent naming of a Los Angeles class nuclear submarine for the City of Asheville is symbolic of this City's national stature and potential. The other sister submarines are named after such cities as Los Angeles, Chicago, Providence and San Juan. Our inclusion reflects not only the distinguished naval history of former USS Ashevilles, but also the respect which this city is afforded throughout our nation.

I have had the pleasure during the past twelve months to work with a very fine and dedicated group of public servants. The Asheville City Council has continued to address the problems of our community on a completely non-partisan basis. My fellow councilmen are hardworking and dedicated stewards of the public trust.

In the upcoming months, the City Council will face continuing budget problems brought about by continued reductions in federal and state assistance. We can and will, however, face those problems and I believe in the long run, have a stronger and more independent City.

There will continue to be friction between the growth and no-growth interests in our community. I predict that this Council will have to face the issues of annexation, zoning, historic districts and Sign Ordinance revision during the next twelve months. These are not easy questions. In many instances, they can divide our community, if we let them. We must not, however, let ourselves become divided on single issues. We must remember that the strength of our democratic system lies not only in the protection of the rights of the majority, but also in the protection of the rights of individuals against the majority. We must keep in mind that our goal is in Asheville which offers economic opportunities to all, but retains the quality of life and uniqueness that has made our City what it is today. I do not believe that we have differences in our ultimate goals. Our differences arise over how to achieve those goals. I am confident that the people of thiscity will choose the path of cooperation and not confrontation in making our community an even better place to live.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice Mayor Mary Lloyd Frank; Councilmen Wilhelmina Bratton, Walter R. Boland, Kenneth M. Michalove, Norma T. Price and George M. Tisdale; Corporation Counsel William F. Slawter, City Manager Douglas O. Bean, and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: None

INVOCATION

The invocation was given by Councilman Boland.

MINUTES

1. Mayor Bissette announced the approval of the minutes of the November 18, 1986 meeting as submitted.

PROCLAMATION - DECEMBER, 1986 - "SANTA-PAL MONTH"

2. Mayor Bissette read a proclamation proclaiming the month of December, 1986 as "Santa-Pal Month", and presented the proclamation to Roger Smith, President of the Santa-Pal Project of the Asheville Optimist Club.

Mr. Smith, on behalf of the the Asheville Optimist Club and the Santa-Pal Project, thanked the Mayor and members of Council for the proclamation. Mr. Smith presented the Mayor with a Certificate of Appreciation to the City of Asheville in recognition of the contributions of past and present elected officials and the citizens of Asheville to the Santa-Pal Project. He also presented each member of Council with a commemorative coin.

PROCLAMATION - "LIGHT UP YOUR HOLIDAYS WEEKS" - NOVEMBER 26 THROUGH DECEMBER 31, 1986

2-A. Mayor Bissette read a proclamation proclaiming November 26 through December 31, 1986 as "Light Up Your Holidays Weeks", and presented the proclamation to Leslie Anderson, Member of the Light Up Your Holidays Board of Directors.

Ms. Anderson said the premiere for the Festival will be held on Pack Square on Saturday, November 29, 1986, at 6:30 P.M. with fireworks and hot cider. She said the Festival keeps growing and becomes better every year. She said there will be a special community celebration on December 13th especially for children and a Chanukah Torch Run for Peace on December 28th. She said the Asheville Citizen-Times has printed a tabloid of the events, which also includes a map in the middle showing the best route for viewing the lights. She said there will be a quiet moment for peace and the closing of the Festival on December 31. She encouraged the Council and public to attend as many of the 200 events scheduled for the Festival as possible.

CLAIMS - NELLIE STITT (WATER)

13. The City Manager presented a claim received from Nellie Stitt.

Mayor Bissette referred the claim to the Corporation Counsel for investigation and recommendation.

LAWSUIT - A MINI STORAGE COMPANY VS. JOHNNY EGBERT JOHNSON, JR., RAY COOPER AND THE CITY OF ASHEVILLE (PROPERTY DAMAGED - AUTOMOBILE ACCIDENT)

14. The City Manager said the City was served on November 14, 1986 with a lawsuit in which the City of Asheville is the defendant involving a mini-storage company versus Johnny Egbert Johnson, Jr., Ray Cooper and the City of Asheville involving property damage by an automobile accident.

Mayor Bissette referred the lawsuit to the Corporation Counsel for investigation and recommendation.

ADJOURNMENT

Upon motion of Councilman Price, seconded by Councilman Michalove, the meeting adjourned at 4:40 p.m.

Mayor

William F. Wolcott
City Clerk

Mayor Bissette closed the public hearing at 4:25 p.m.

Mayor Bissette said copies of the ordinance had previously been distributed to members of Council and the ordinance would not be read in its entirety. However, he said, a copy of the ordinance would be given to any member of the public desiring a copy.

Councilman Price moved to adopt Ordinance No. 1617 and to amend the first sentence of Section 4 to read "The terms and provisions of this ordinance shall apply to all City property as defined hereinbefore" and to amend Section 11 (B) to include a provision that the 3-man board include at least one (1) member of the Asheville Tree Commission. This motion was seconded by Councilman Michalove.

On a roll call vote of 7-0, Ordinance No. 1617 passed on first reading, as amended.

Councilman Michalove moved to suspend the rules and proceed to the second reading of Ordinance No. 1617. This motion was seconded by Councilman Bratton and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1617 passed on second reading, as amended.

Councilman Michalove moved to suspend the rules and proceed to the third reading of Ordinance No. 1617. This motion was seconded by Councilman Bratton.

Councilman Price said she felt the third reading of the ordinance should be postponed until next week to give the public time to comment on the ordinance.

On a voice vote of 5-2, Councilman Michalove's motion to suspend the rules and proceed to the third reading failed.

ORDINANCE NO. 1618 - AN ORDINANCE TO REGULATE THE TRAFFIC OF TRUCKS ON DESIGNATED RESIDENTIAL STREETS IN THE CITY OF ASHEVILLE

4. Consideration was given to an ordinance to regulate the traffic of trucks on designated residential streets in the City of Asheville.

Mayor Bissette said the City of Asheville has the authority to control all public streets within its corporate limits which are not under the authority of the North Carolina Board of Transportation. There has been local interest in preserving residential areas by controlling noise levels and safeguarding residential streets from hazardous conditions. The Asheville City Council finds and declares that the traffic of trucks unduly increases the noise levels and hazards of particular residential streets within the City of Asheville. This ordinance will regulate the traffic of trucks on designated residential streets in the City of Asheville.

PUBLIC HEARING - TREE ORDINANCE

ORDINANCE NO. 1617 - AN ORDINANCE ESTABLISHING A TREE ORDINANCE FOR THE CITY OF ASHEVILLE

3. A public hearing was held relative to the adoption of a Tree Ordinance for the City of Asheville.

Mayor Bissette said the City of Asheville deems it necessary and desirable in the interest of public health, safety and welfare to enact an ordinance for the preservation, planting, and replacement of trees and to prevent the indiscriminate pruning and removal of trees in the City without denying the reasonable use and enjoyment of real property.

Mayor Bissette opened the public hearing at 4:15 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Corporation Counsel William F. Slawter said the ordinance had been amended since the earlier public hearing. He said the new ordinance will have jurisdiction over any trees on the City's right-of-way and would prevent any activity that would destroy the trees. He said permits would be required to remove trees. He said these permits will be obtained from the City Manager or his designee. He said if a person is dissatisfied with the decision of the City Manager or his designee relative to the request for a permit, the person may appeal the decision to a 3-man board, and if still not satisfied may appeal the decision to the City Council. He said the ordinance also provides a penalties section, and the penalty may also be appealed in the same manner. He said trees with a 2-inch or more diameter at a height of 4-1/2 feet are regulated by the ordinance. He said in order to prevent excessive pruning and topping of trees, compliance with approved pruning standards is required. He said the City can obtain injunctive relief through the courts and can also obtain Court Orders to prevent damage if time permits.

Upon inquiry of Councilman Price relative to undefined rights-of-way, Mr. Slawter said this information can be obtained from the Public Works Department or the N. C. Department of Transportation.

Mayor Bissette said he had received a letter from Steve Bowman saying that he could not attend the meeting, but would let the photographs he attached to his letter stand as his official statement. Mayor Bissette passed the photographs around for review by members of Council.

Susan Roderick, Chairman of the Asheville Tree Commission, congratulated Bill Slawter on the good job he had done in preparing the ordinance. She said she thought it was a good ordinance if it will be enforced. She said some of the biggest offenders of cutting trees on the rights-of-way are City employees and that they need to be educated about trees. She said she would like to see the City hire an Arborist or a person with a degree who would take the initiative to do more toward enforcement. She said she would also like to see a member or two of the Tree Commission on the 3-man board to be appointed by the City Manager.

Council consider lowering the weight limit to 6,500 lbs. She also requested that Council consider amending the ordinance to include Evelyn Place between Charlotte Street and Murdock Avenue instead of Evelyn Place between Charlotte Street and Edwin Place as the ordinance currently reads.

Mr. Ron Goldstein of Blue Ridge Trucking Company spoke in support of the ordinance saying that he didn't think the proposed ordinance would put a hardship on the trucking companies.

Mr. Ned Guttman of 58 Beechwood Road spoke in support of the ordinance, but said the ordinance should restrict all commercial vehicles and not just truck traffic in residential areas.

Mrs. Suzanne Peake of 6 Edwin Place spoke in support of the ordinance. She said she had spent an hour on Monday counting trucks, and during that time span, she counted 10 major construction or commercial vehicles. She said she would appreciate anything the Council could do to reduce the truck traffic.

Mrs. Carolyn Tingle of 37 Kenilworth Road said she felt the ordinance should be stricter and should include any type of commercial vehicles.

Mr. Paul Lominac of 656 Lakeshore Drive spoke in support of the ordinance saying that the trucks break off tree limbs and are dangerous to trees.

Mr. Solon Gilmore of 131 Edwin Place said he appreciates what the Council is trying to do about trucks in residential areas. He said the ordinance will improve the quality of life in Asheville if the ordinance is enforced and requested that the City actively pursue the enforcement of the ordinance upon its adoption by City Council.

Mr. William Milhaupt of 19 Majestic Avenue said he had counted several Southern Concrete Materials trucks in a 30-minute time span. He said these trucks weigh 78,000 lbs. and are very noisy and dangerous to children and pets in the area.

Councilman Bratton moved for the adoption of Ordinance No. 1618 and to amend it to include Fairview Road with the exact boundaries to be determined at next week's Council Meeting. This motion was seconded by Councilman Price.

Mayor Bissette requested that the City Manager look into empty passenger buses using City streets as short cuts.

On a roll call vote of 7-0, Ordinance No. 1618 passed on first reading, as amended.

Mayor Bissette said copies of the ordinance had previously been distributed to members of Council and the ordinance would not be read in its entirety. However, he said, a copy of the ordinance would be given to any member of the public desiring a copy.

Mayor Bissette read the names of the streets to be included in the ordinance. He said he and other members of Council had received requests that the following streets be included in the ordinance - Fairview Road, Ambler Road, Gladstone Road, Fairway Drive, and Gracelyn Road. He said staff will review these requests and report back next week.

Mayor Bissette said staff had reviewed the request and recommended that Fairview Road from the railroad tracks to its intersection with Onteora Boulevard be included in the ordinance.

Councilman Price thanked Corportion Counsel Slawter for finding a way to address a concern that had been plaguing Council for several years.

Mayor Bissette said the ordinance is designed to prevent commercial trucks from taking short cuts through residential areas to avoid using the major arteries to get through town.

Upon inquiry of Councilman Boland, Traffic Engineer Bob McDonald said the 10,000 lb. limit was established by looking at weights of unloaded beverage trucks such as Coca Cola. He said these trucks usually weight between 10,000 and 12,000 lbs. unloaded.

At the request of Councilman Bratton, Mayor Bissette said the reason the Council did not act on the request to restrict truck traffic on Fairview Road from the railroad tracks to I-240 was because Fairview Road from Onteora Boulevard to I-240 is under the jurisdiction of the N. C. Department of Transportation.

Mr. W. P. Holt of 610 Fairview Road requested that the trucks be restricted on Fairview Road from where the current "no truck" sign is located now because North State Materials is located inside the railroad tracks. He said he had made a list of 16 trucking companies who use Fairview Road on a daily basis.

Mrs. Davis of Fairview Road said the City has truck routes that run parallel to Fairview Road - Swannanoa River Road and U.S. 25-A Sweeten Creek Road. She emphasized that Fairview Road should not be used as a truck route because it is a nice, 70 year old community and the residents would like to keep it that way. She also said the City cannot expect the homeowners to invest money to improve their homes and property just to have them damaged by heavy trucks using the road. She said the community is not very rich, but the residents are proud of it and it has remained stable over the years.

Linda Sarubbi of the Grove Park/Sunset Association spoke in support of the ordinance. She said she did have concerns that the ordinance did not address public transportation such as Youngs Transportation and the Asheville Transit Authority driving empty buses through the neighborhoods as short cuts to their terminal or the Grove Park Inn. She said she had also checked on weights of trucks with Matthews Ford and requested that

A. RESOLUTION NO. 86-211 - Resolution appointing a member to the Planning and Zoning Commission.

HIGHLIGHTS: Jan Wiegman has resigned as a member of the Planning and Zoning Commission. This resolution will appoint Danie Johnson to fill the unexpired term, term expiring August 14, 1987, or until his successor has been duly appointed and qualified.

Resolution Book No. 16 at page 224.

B. RESOLUTION NO. 86-212 - Resolution reappointing member to the Asheville-Buncombe Insurance Advisory Committee.

HIGHLIGHTS: This resolution will reappoint Richard E. Burdette to the Asheville-Buncombe Insurance Advisory Committee, term expiring October 1, 1990, or until his successor has been duly appointed and qualified.

Resolution Book No. 16 at page 225.

C. RESOLUTION NO. 86-213 - Resolution reappointing member to the Asheville Transit Authority.

HIGHLIGHTS: This resolution will reappoint Walter J. Renfroe as a member of the Asheville Transit Authority term expiring December 31, 1990 or until his successor has been duly appointed and qualified.

Resolution Book 16 at page 226.

D. RESOLUTION NO. 86-214 - Resolution reappointing member to the Board of Trustees of the Firemen's Relief Fund.

HIGHLIGHTS: This resolution will reappoint Webb E. Ellis as a member of the Board of Trustees of the Firemen's Relief Fund, term expiring January 1, 1989 or until his successor has been duly appointed and qualified.

Resolution Book 16 at page 227.

E. Consideration of a motion to schedule a public hearing relative to a site plan of a proposed addition to Pepsi Cola Bottling Company located in Sweeten Creek Industrial Park for December 9, 1986.

HIGHLIGHTS: The Asheville Planning and Zoning Commission at a meeting held November 12, 1986, reviewed the site plan of a proposed addition to Pepsi Cola Bottling Company located in Sweeten Creek Industrial Park. The plan was prepared by Southeastern Architects-Engineers for the developer.

RESOLUTION NO. 86-210 - A RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN AN AGREEMENT WITH DELTA PLAN OF NORTH CAROLINA FOR THE PURPOSE OF PROVIDING DENTAL INSURANCE TO CITY EMPLOYEES AND THEIR DEPENDENTS

5. Consideration was given to a resolution authorizing the City Manager to sign an agreement with Delta Dental Plan of North Carolina for the purpose of providing dental insurance to city employees and their dependents.

Mayor Bissette said the City of Asheville desires to provide some form of dental coverage to its employees and their dependents. This resolution will authorize the City Manager to sign an agreement between Delta Dental Plan of North Carolina and the City of Asheville for the purpose of providing insurance coverage to employees and their dependent family members.

City Manager Doug Bean said a dental plan for employees was includec in the 1986-87 Budget. He said several proposals were reviewed and that he recommends approval of the Delta Dental Plan, which offers good basic coverage for the employees. He said the cost to the City would be $60,000 per year and that funds have been included in the budget.

Mayor Bissette said copies of the resolution had previously been distributed to members of Council and the resolution would not be read in its entirety.

Upon motion of Councilman Boland, seconded by Councilman Michalove, Resolution No. 86-210 was unanimously adopted.

Complete text of Resolution No. 86-210 will be found in Resolution Book No. 16 at page 223.

CONSENT AGENDA

6. Consideration was given to a motion approving the consent agenda.

Mayor Bisette said the following items are of a routine nature and they have been previously reviewed by the members of the City Council. Therefore, by unanimous vote to approve these items, the City Council may, pursuant to the procedures established in Ordinance No. 1008, adopt all of the items with one motion without the full reading and/or separate motion adopting each individual item. Upon the request of a citizen, a member of the City Council, and/or a member of the City staff, any single item scheduled for approval on the consent agenda may be considered separately.

Mayor Bissette announced that the resolution reappointing Councilman Price would be removed from the consent agenda since she would have a conflict in voting on and discussing the resolution.

Mayor Bissette said the law gives the City Manager the authority to hire and fire and that he expects him to hire the most qualified applicant for any job opening he has regardless of whether they are from Asheville or not.

Councilman Boland said this issue poses a dilemma. He said the City Manager wants to assure that the leadership of City departments have new ideas, which will make the City more adaptive to changing circumstances. On the otherhand, he said, the appointment of persons to high ranking administrative positions has the effect of enhancing the morale of City employees.

Councilman Frank said the City provides a continuing education for employees and it is up to them to take advantage of it.

Councilman Michalove said the Civil Service System governs all employees except those appointed by the City Manager. He said if the City Manager sees a need to reorganize or replace department heads, he must set the criteria for the position and hire the person most qualified for the position, and this is in the best interest of the City of Asheville.

ORDINANCE NO. 1619 - BUDGET ORDINANCE AMENDMENT - STREETSCAPE IMPROVEMENTS IN THE WALL STREET REDEVELOPMENT PROJECT

10. Consideration was given to a budget ordinance amendment to establish an appropriation for Streetscape Improvements in the Wall Street Redevelopment Project.

City Manager Doug Bean said this budget amendment will provide $450,000 for streetscape improvements in the Wall Street Redevelopment Project and that funding will be provided through the use of General Revenue Sharing Funds.

Mayor Bissette noted that this is part of the Memorandum of Understanding with Southeastern and the Wall Street Project.

Councilman Price moved for the adoption of Ordinance No. 1619. This motion was seconded by Vice Mayor Frank.

On a roll call vote of 7-0, Ordinance No. 1619 was adopted on first and final reading.

Complete text of Ordinance No. 1619 will be found in Ordinance Book No. 11 at page 105.

REVEREND B. WILLIS WILSON II, CHAIRMAN OF THE SOCIAL ACTION COMMITTEE OF THE ASHEVILLE MINISTERIAL ALLIANCE - AFFIRMATIVE ACTION PLAN DRAFT FOR THE CITY OF ASHEVILLE

11. Reverend B. Willis Wilson II, Chairman of the Social Action Committee of the Asheville Ministerial Alliance, read the following memorandum relative to the City of Asheville Affirmative Action Plan Draft for the record.

Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of the project subject to compliance with the Erosion Control Ordinance.

Upon motion of Councilman Tisdale, seconded by Vice Mayor Frank, the Consent Agenda was unanimously adopted.

RESOLUTION NO. 86-215 - RESOLUTION REAPPOINTING MEMBER TO THE ASHEVILLE-BUNCOMBE WATER AUTHORITY

7. Consideration was given to a resolution reappointing member to the Asheville-Buncombe Water Authority.

Mayor Bissette said this resolution will reappoint Norma T. Price as a member of the Asheville-Buncombe Water Authority term, expiring December 31, 1989, or until her successor has been duly appointed and qualified.

Councilman Price requested that she be excused from the discussion and vote on the resolution due to a conflict of interest.

Vice Mayor Frank moved to excuse Councilman Price from voting on the resolution. This motion was seconded by Councilman Michalove and carried unanimously.

Upon motion of Councilman Michalove, seconded by Councilman Boland, Resolution No. 86-215 was unanimously adopted.

Complete text of Resolution No. 86-215 will be found in Resolution Book 16 at page 228.

MOTION - ACCEPTANCE OF PROPERTY LOCATED ON PATTON AVENUE - DONATED BY MRS. HELEN B. ZAGIER

8. Councilman Michalove introduced a letter from Karl H. Straus written to Mayor Bissette relative to Mrs. Helen B. Zagier's desire to donate a parcel of real estate located on the southern margin of Patton Avenue and recorded in the Office of the Register of Deeds for Buncombe County in Plat Book 46 at Page 129.

Councilman Michalove moved to accept the property from Mrs. Zagier. This motion was seconded by Councilman Tisdale and carried unanimously.

COUNCILMAN TISDALE - COMMENTS ON HIRING PEOPLE FROM OUT OF TOWN

9. Councilman Tisdale said at the November 11th Pre-Council Meeting, he had expressed concerns about hiring so many folks from out of town. He said this gives the impression that the City does not have any qualified people with expertise from our own City. He said he would encourage an on-going training program. He said the City needs to do some vigorous recruitment to hire some of these people locally, and if something is wrong, the Council should be so advised so they can do something about it. He said the City Manager is appointed by the City Council, but the Council Members are elected by the people and are accountable to the voters for the actions they take.

Mayor Bisette said the Council did meet with the EEO Task Force today and that comments were received. He said the comments and suggested amendments were referred back to the Task Force and City Manager to come up with definite goals and timetables with a request to report back to Council no later than January 13, 1987.

Councilman Price said even though Council took no formal action on the Affirmative Action Plan, it was the consensus of the Council that the City Manager go ahead with the education process.

Upon a request from Reverend Tomes for clarification of Paragraph 5 of Councilman Boland's memorandum to the Council, Councilman Boland said a couple of the Task Force Members favored hiring a full-time recruiter and others felt that redefining the role of one of the members of the Civil Service staff might be a solution as well.

CLAIMS - D.E.U. ENTERPRISES (WATER) TIM HARRISON (WATER)

12. The City Manager presented claims received from D.E.U. Enterprises (Water) and Tim Harrison (Water).

Mayor Bissette referred the claims to the Corporation Counsel for investigation and recommendation.

Mayor Bissette excused himself from the meeting and turned over the chair to Vice Mayor Frank.

RALPH BISHOP - CITY MANAGER'S DUTY TO ENFORCE LAWS OF NORTH CAROLINA

Ralph Bishop said that Section 24 of the Charter requires the City Manager to enforce the laws of North Carolina. He said he might pursue court action to remove the City Manager from office for willfully refusing to enforce State laws.

PAUL LOMINAC - ENFORCEMENT OF NOISE ORDINANCE - MUFFLERS AND EXHAUST SYSTEMS AND MOTORCYCLES AND OTHER VEHICLES

Mr. Pual Lominac of 656 Lakeshore Drive inquired why the City's noise ordinance is not being enforced relative to mufflers and exhaust systems. He said noise is one of the worse problems in our community. He said half of the people in Asheville are not obeying the ordinance. He said he had asked the new Sheriff-elect Buck Lyda to look into this problem and that Mr. Lyda told him he would meet with Chief Hensley to discuss this problem after he took office.

Councilman Price said one reason for not enforcing the ordinance might be because the City doesn't have an instrument to measure decibels.

Vice Mayor Frank requested that the City Manager look into this problem.

TO: The Honorable Mayor Lou Bissette
The City Council of Asheville, North Carolina

FROM: Social Action Committee Asheville Ministerial Alliance

RE: The City of Asheville Affirmative Action Plan Draft

The Social Action Committee of The Asheville Ministerial Alliance in conjunction with the Alliance itself wishes to express its appreciation to Council and the Committee on Affirmative Action for allowing this correspondence to be submitted as a statement reflecting several concerns held by various segments of the Asheville community.

The words of the late Abraham Lincoln, the sixteenth President of these United States of America, ring loudly today as they did when first he spoke them "Four score and seven years ago our fathers brought forth on this continent a new nation conceived by the proposition that all men are created equal..."

The proposed Affirmative Action Draft before Council in its current form does not do justice to this noble and high ideal of our Nation and late President. The plan at best is a well intentioned working document, which lifts some definite promises but falls short of providing substantive strength in clear and concrete language that would insure the promise of the document and its intent becoming a reality.

It is the considered opinion of this Social Action Committee, that any draft that attempts to speak to Affirmative Action for the City of Asheville would have as a part of its body the inclusion of Specific Goals and timetables.

Without goals for hiring and corresponding time lines, it is gravely feared that the all to often familiar approach to promoting Black men and women will continue in this Asheville Committee. A strong Affirmative Action Plan for Asheville would require that the development, administration, and scoring of test be provided by an independent agent or resource that is not part and part of the in-house system of City and departmental jurisdiction.

The larger Black community in general and the Social Action Committee in particular respectfully request this Affirmative Action Committee to return to the table of negotiation and seek to strengthen this otherwise high sounding document filled with legal loopholes, which seek not to enhance the plight of Blacks, rather perpetuate the status quo. Further, the Social Action Committee calls upon this Council to uphold the equal rights of all the citizens of Asheville and by so doing not to approve or adopt or pass any Affirmative Action Plan that does not include Goals and timetables that will aide in the improving of the quality of life in the market place for Black workers in the City of Asheville.

B. Willis Wilson, II
Chairman, Social Action Committee

Regular Meeting

Present: Vice Mayor Mary Lloyd Frank, Presiding; Councilmen Walter R. Boland, Kenneth M. Michalove, Norma T. Price and George M. Tisdale; Corporation Counsel William F. Slawter, Associate City Manager William F. Wolcott, Jr., and Acting City Clerk Margaret Messer

Absent: Mayor W. Louis Bissette, Councilman Wilhelmina Bratton and City Manager Doug Bean

Vice Mayor Frank said Mayor Louis Bissette and City Manager Doug Bean were both out of town attending the 1986 Congress of Cities Meeting in San Antonio, Texas, and were expected back in town later today.

INVOCATION/PLEDGE OF ALLEGIANCE

Councilman Tisdale asked all present to stand and join him in saying the Pledge of Allegiance. Councilman Tisdale gave the invocation.

APPROVAL OF MINUTES - NOVEMBER 25, 1986 MEETING

1. Consideration was given to the approval of the minutes of the November 25, 1986 meeting.

Vice Mayor Frank announced the approval of the minutes as submitted.

PUBLIC HEARING - SITE PLAN - CONVERSION OF HOUSE AT CHARLOTTE STREET AND HILLSIDE WALK

2. A public hearing was held relative to a site plan of the proposed conversion of an existing house at Charlotte Street and Hillside Walk.

Vice Mayor Frank said the Asheville Planning and Zoning Commission at a meeting held October 8, 1986, reviewed a site plan of the proposed conversion of an existing house at Charlotte Street and Hillside Walk into four apartment units. The plan was prepared by Danie Johnson, Architect, for James Daniels, Developer, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of the project as submitted.

Vice Mayor Frank opened the public hearing at 4:10 p.m.

The City Clerk presented the notice to the public setting the time and date of the public hearing and the affidavit of publication.

Al Kopf, Planning Technician, said the house at the corner of Charlotte Street and Hillside Walk will be converted into four (4) apartment units. He said the property is zoned Commercial General, and that access to the house will be from Orchard Street along a private drive.

Mr. Lominac said he is also concerned about the safety on our Interstates particularly because of tractor-trailers, their speed, and the blinding splash they cause on windshields when passing other vehicles. He said he was going to write to the Governor of North Carolina and other State officials to see about requiring splashboards on tractor-trailers. He said the City could lead the way in getting something started on this.

ADJOURNMENT

Upon motion of Councilman Boland, seconded by Councilman Price, the meeting adjourned at 5:45 P.M.

MAYOR

CITY CLERK

4. Page 3, Section 3(J), Line 3 - Revise phrase to read "cause the actual removal or the effective removal through damaging, poisoning or other direct or indirect actions resulting in the death of a tree.

5. Page 3, Section 4, Line 4 - Add new sentence to read "the terms and provisions of this ordinance shall be consistent with any requirements imposed by State law or by the North Carolina Department of Transportation in connection with any State-owned or maintained right-of-way."

6. Page 4, Section 7 (A) (2), Line 8 - Revise word to read "suspended"

7. Page 4, Section 7 (B) - Whole Section revised to read "If any Regulated Tree(s) is to be removed during construction, including new construction and repair or rehabilitation, an application for a tree removal permit shall be submitted with the application for a zoning permit. No provisional grading permit shall be issued until a tree removal permit has been issued. The application for a tree removal permit shall include, but not be limited to the following:"

8. Page 5, Section 8, Line 5 - Add phrase "or other materials which are damaging to trees."

9. Page 6, Section 11 (A) - Revise phrase to read "the measures required to comply with the ordinance, if compliance is at all practicable, and a reasonable time period within which compliance must be had."

10. Page 7, Section 13, Line 1 - Revise second and third word to read "there exists" reasonable...

11. Page 7, Section 13, Line 4 - Revise phrase to read "the City of Asheville may"

12. Page 8 - Add new section to read, "Section 16. Severability Clause. Should any section or provision of this ordinance be declared invalid by any court of competent jurisdiction, such declaration shall not affect the validity of the ordinance as a whole or any part thereof which is not specifically declared to be invalid."

At the request of Councilman Boland, Corporation Counsel William F. Slawter addressed the issues raised in a letter written to Mayor Bissette from Mr. Ronald B. Schmoll of 20 Howland Road. He said there were two main points in Mr. Schmoll's letter (1) damage being done to trees by City employees, which he felt the City Manager could address administratively through a memo; and (2) and Mr. Schmoll's request to amend the ordinance where "public right-of-way" appears and insert the language "on property which is zoned for commercial development". Mr. Slawter said the City

He said ample parking has been provided for the units, which also includes handicapped parking. He said the Council should include the 12-foot buffer requirement recommended by the Planning and Zoning Commission in their motion.

Mr. Jim Daniels said this particular house had been vacant for the past 5 years. He said he was concerned about the 12-foot buffer, and that this is not what he and Mr. Gibbs want. He said they are willing to get together and work out a landscaping plan for the area.

Mr. Gibbs said he did not want to see the property in disrepair and agreed that he would be willing to work with Mr. Daniels on a mutually agreed upon landscaping plan.

Vice Mayor Frank closed the public hearing at 4:13 p.m.

Councilman Michalove moved to approve the site plan of the proposed conversion of an existing house at Charlotte Street and Hillside Walk contingent upon Mr. Daniels and Mr. Gibbs working out a mutual agreement on the landscaping plan for the buffer zone. This motion was seconded by Councilman Boland and carried unanimously.

ORDINANCE NO. 1617 - AN ORDINANCE ESTABLISHING A TREE ORDINANCE FOR THE CITY OF ASHEVILLE

3. Consideration was given to the third reading of Ordinance No. 1617, an ordinance establishing a Tree Ordinance for the City of Asheville.

Vice Mayor Frank said the City of Asheville deems it necessary and desirable in the interest of public health, safety and welfare to enact an ordinance for the preservation, planting, and replacement of trees and to prevent the indiscriminate pruning and removal of trees in the City without denying the reasonable use and enjoyment of real property. On November 25, 1986, a public hearing was held and this ordinance passed on first and second reading.

Vice Mayor Frank said copies of the ordinance, highlighting revisions to the ordinance, had previously been distributed to members of Council, and the ordinance would not be read in its entirety.

Upon a request from Council, Corporation Counsel William F. Slawter summarized the revisions for those attending the meeting. He said most of the revisions were language changes and the addition of a new Severability Clause. The verbatim text of the revisions are listed below:

1. Page 1, Section 2, Line 6 - Add the word "applicable"

2. Page 2, Section 3(B), Line 3 - Revise phrase to read "or any part of any Right-of-Way as defined hereinafter"

3. Page 2, Section 3(G), Line 4 - Add sentence to read "The standards shall include requirements for overhead clearance of a minimum of seven (7) feet."

ORDINANCE NO. 1618 - AN ORDINANCE TO REGULATE THE TRAFFIC OF TRUCKS ON DESIGNATED RESIDENTIAL STREETS IN THE CITY OF ASHEVILLE

4. Consideration was given to the second reading of Ordinance No. 1618, an ordinance to regulate the traffic of trucks on designated residential streets in the City of Asheville.

Vice Mayor Frank said the City of Asheville has the authority to control all public streets within its corporate limits which are not under the authority of the North Carolina Board of Transportation. There has been local interest in preserving residential areas by controlling noise levels and safeguarding residential streets from hazardous conditions. The Asheville City Council finds and declares that the traffic of trucks unduly increases the noise levels and hazards of particular residential streets within the City of Asheville. This ordinance will regulate the traffic of trucks on designated residential streets in the City of Asheville. This ordinance passed on first reading on November 25, 1986.

Bob McDonald, Traffic Engineer, said he had been asked to look into the inclusion of several street at last week's Council Meeting. He recommended that the ordinance be amended to include the following streets:

1. Gracelyn Road - Between Merrimon Avenue and Kimberly Avenue.
2. Fairway Drive - From 0.13 mile north of Swannanoa River Road to Gladstone Road.
3. Gladstone Road - Southern portion between Fairway Drive and Ambler Road.
4. Ambler Road - Entirety.
5. Evelyn Place - Between Charlotte Street and Murdock Avenue.
6. Fairview Road - From a point 0.3 mile from Sweeten Creek Road to Stevens Street.
7. Druid Drive - Between Patton Avenue and Mitchell Avenue
8. Mitchell Ave. - Between Druid Drive and Haywood Road
9. Grovewood Rd. - Entirety.
10. Glen Falls Rd.- Entirety.

Mr. McDonald said he would have a report for Council next week concerning proposed language to regulate trucks other than by weight alone. He said he would also have a recommendation on adding a portion of Osborne Road to the ordinance, along with any other requests he might receive.

Mr. Ronald Schmoll of 20 Howland Road asked if there was any way to regulate heaving construction traffic or limit the times of day construction trucks can use the area during the Grove Park Inn construction in order to preserve the peace and quite of the neighborhood.

Councilman Price said when the site plan for the new Grove Park Inn addition was approved, a Committee was established to address problems that would occur in the neighborhood as a result of the construction. She told Mr. Schmoll that Attorney Jack Westall represents the Grove Park Inn on the Committee, and that Mr. Schmoll should contact Mr. Westall about his concerns.

Manager may address or take any action he wants to take with regard to damage to trees by City employees. He said the ordinance, since its inception, has applied to all rights-of-way and not just commercially zoned areas and he thought the purpose of Mr. Schmoll's statement was to prevent problems that occur in commercial areas.

Councilman Boland said the present ordinance being considered by Council is much more conservative and much less regulatory to private property. He said he is comfortable with the document now before the Council.

Ron Schmoll of 20 Howland Road said comments at the public hearing was what had initiated his letter to the Mayor. He said City employees can be regulated through administrative means, but that the ordinance needs to address regulating the activities of commercial development. He also said he felt the ordinance was an encroachment on private property rights and an intent to regulate residential property.

Councilman Michalove said the ordinance was designed to address all public rights-of-way and does not regulate private property.

Upon a request from Mr. Schmoll to define "right-of-way" and whether or not the ordinance applied to utility easements, Corporation Counsel William F. Slawter said the terms "right-of-way" and "easement" are used interchangebly; however, he said, right-of-way, as used in the ordinance does not apply to rights-of-way or easements for water and other utilities.

Ralph Bishop questioned the City Manager or his designee being given the authority to decide everything about trees saying he didn't think the City Manager was qualified to make such decisions.

Councilman Price said the Tree Commission has members who are experts and are knowledgeable in this area, and that a representative of this Commission will be on the Appeal Board.

Ray L. Kisiah, Director of Parks, Recreation & Public Facilities, said the City has several employees who trim trees and these employees are sent to specialized training schools. Also, he said one member of the Tree Commission is a specialist on insects. He said the City would be reluctant to take down any tree without a thorough check. He said the City Manager was designated as the person authorized to issue permits because he is appointed by the City Council and responsible to them under the ordinance.

Councilman Price moved to amend the ordinance as read by Corporation Counsel. This motion was seconded by Councilman Boland and carried unanimously.

On a roll call vote of 5-0, Ordinance No. 1617 passed on third and final reading, as amended.

Complete text of Ordinance No. 1617 will be found in Ordinance Book 11, at page 93-100.

HIGHLIGHTS: The Asheville Planning and Zoning Commission at a meeting held November 12, 1986, reviewed the site plan of the proposed K-Mart Shops of Asheville to be located on South Tunnel Road (beneath Beaucatcher Cinemas Parking Deck). The plan was prepared by Danie Johnson, Architect, for Mr. Edward I. Greene, Developer, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of the project subject to compliance with the Erosion Control Ordinance.

FISCAL IMPACT: None

B. Consideration of a motion scheduling a public hearing on the site plan of a proposed addition to Sand Hill Mobile Home Park located at 710 Sand Hill Road for December 16, 1986.

HIGHLIGHTS: The Asheville Planning and Zoning Commission at a meeting held on November 12, 1986, reviewed the site plan of a proposed addition to Sand Hill Mobile Home Park located at 710 Sand Hill Road. The plan was prepared by Kenneth Pankow, Engineer, for Mr. Tom Pinkerton, Developer, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of the project subject to compliance with the Erosion Control Ordinance and provision of a 12-foot buffer on the North boundary line.

FISCAL IMPACT: None

C. Consideration of a motion to schedule a public hearing on the site plan of a proposed addition to Aston Park Health Care Center located at 380 Brevard Road for December 16, 1986.

HIGHLIGHTS: The Asheville Planning and Zoning Commission at a meeting held November 12, 1986, reviewed the site plan of a proposed addition to Aston Park Health Care Center located at 380 Brevard Road. The plan was prepared by Larry Traber, Architect, for the developer, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of the project subject to compliance with the Erosion Control Ordinance.

FISCAL IMPACT: None

D. Consideration of a motion to schedule a public hearing on a modified site plan of the Oxford/Asheville Retirement Center for December 16, 1986.

Ralph Bishop said former Mayor Larry McDevitt had said it was a mockery of justice not to uphold the ordinances of the City of Asheville and laws of North Carolina. He said he couldn't understand why Council wanted to pass an ordinance that would be almost impossible to enforce. He said if the Police Department can't enforce the lottery laws, which are stationery, he didn't know how they expected to enforce anything moving.

Vice Mayor Frank said she realized it would be difficult to enfoce the ordinance, but in considering this ordinance, Council was addressing problems in residential neighborhoods that had been brought to their attention over the last several years.

Bob McDonald clarified the section of Fairview Road to be included in the ordinance for Mrs. Davis of Fairview Road.

Councilman Boland moved to amend the ordinance to include the streets and segments of streets as read by Mr. McDonald. This motion was seconded by Councilman Michalove and carried unanimously.

On a roll call vote of 5-0, Ordinance No. 1618 passed on second reading, as amended.

MOTION - CANCELLING CITY COUNCIL MEETING SCHEDULED FOR DECEMBER 30, 1986

5. Consideration of a motion to cancel the City Council Meeting scheduled for December 30, 1986.

Councilman Tisdale moved to cancel the City Council Meeting schedule for December 30, 1986. This motion was seconded by Councilman Price and carried unanimously.

CONSENT AGENDA

6. Consideration was given to a motion approving the consent agenda.

Vice Mayor Frank said the following items are of a routine nature and they have been previously reviewed by the members of the City Council. Therefore, by unanimous vote to approve these items, the City Council may, pursuant to the procedures established in Ordinance No. 1008, adopt all of the items with one motion without the full reading and/or separate motion adopting each individual item. Upon the request of a citizen, a member of the City Council, and/or a member of the City staff, any single item scheduled for approval on the consent agenda may be considered separately.

A. Consideration of a motion to schedule a public hearing relative to a site plan of the proposed K-Mart Shops of Asheville to be located on South Tunnel Road (beneath Beaucatcher Cinemas Parking Deck) for December 16, 1986.

Vice Mayor Frank referred the claims to the Corporation Counsel for investigation and recommendation.

LAWSUIT - JOHN H. GRIFFIN VS. CITY OF ASHEVILLE, BOARD OF ADJUSTMENT

8. The Associate City Manager said the City was served on November 26, 1986 with a lawsuit in which the City of Asheville is a defendant involving an appeal from a Board of Adjustment decision.

Vice Mayor Frank referred the lawsuit to the Corporation Counsel for investigation and recommendation.

JIM DANIELS - DANIELS GRAPHICS/15 RANKIN STREET - ACCESS TO LOADING DOCK - CONFLICT WITH CONSTRUCTION OF THE RANKIN STREET PARKING GARAGE

Mr. Jim Daniels of Daniels Graphics, 15 Rankin Street, said the design plans for the construction of the new Rankin Street Parking Garage will leave him with a restricted access to his loading dock. He said the printing business requires deliveries by large tractor trailers and the present design plans for the parking facility will not accommodate deliveries by this method. He said he had talked with Mr. Cooper of Enwright Associates and was told that it was not within Mr. Cooper's range to provide access for trucks to unload at his dock. He said it had also been suggested to him that the tractor-trailers back in, blocking the sidewalk, using a forklift to unload. He said he questioned the safety of this suggestion since pedestrians would have to use the street instead of the sidewalk and he further questioned who would be liable should an accident occur.

Mr. Daniels said he employees 62 people and the building for his business has been in the same location for the past 61 years. He said he could not operate his business without truck access and suggested that a simple compromise would be for the City Council to direct the architect to provide a 30-foot access at the side of the building so that trucks could back in to his present loading dock.

Councilman Michalove said he would be happy to meet with the Mayor and City Manager and any other Councilmen to work toward a solution to Mr. Daniel's problem and would report back at the December 9th meeting.

Councilman Boland suggested that staff look into the problem and report back to Council. He said he would be glad to also volunteer with Councilman Michalove to work towards a solution to the problem.

VICE MAYOR FRANK - REPORT ON INTERGOVERNMENTAL SERVICES COMMITTEE MEETING - TUESDAY DECEMBER 2, 1986

Vice Mayor Frank said the Intergovernmental Services Committee, consisting of herself, Councilmen Boland and Tisdale, and Commissioners Montgomery and Sobol, had met at 12:30 today. She said the Committee plans to discuss concerns about the Water Agreement at the next meeting. She said they had also discussed the Animal Shelter relative to dog licenses and fees. She said the next meeting of the Committee would be held at 12:30 p.m. on Tuesday, January 6, 1987 in the City Hall Building.

HIGHLIGHTS: The Asheville Planning and Zoning Commission at a meeting held November 12, 1986, reviewed a modified site plan of the Oxford/Asheville Retirement Center. The project to be named "Chambrel of Asheville" is located on Hendersonville Road. The site plan was prepared by Land Design, Architects, for the Oxford Development Corporation, both of Charlotte, North Carolina, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of the project subject to compliance with the Erosion Control Ordinance; to recomend that City Council grant a variance to permit .9 parking spaces per unit, and confirmation by Board of Adjustment of Conditional Use in the R-3 District approved February 3, 1986.

FISCAL IMPACT: None

E. Consideration of a motion to schedule a public hearing relative to a rezoning property located on Campground Road for December 23, 1986. (R. S. Craig, Petitioner)

HIGHLIGHTS: On August 19, 1986, City Council requested the Planning and Zoning Commission to consider rezoning Ward 8, Sheet 31, Lot 16, from R-2 Residential District to CH Commercial Highway District. The Commission reviewed this request at their October 8, 1986 meeting. After review and discussion, the Commission voted to recommend to City Council that Ward 8, Sheet 31, Lot 16, be rezoned from R-2 Residential District to R-4 Residential District with applicable buffering.

FISCAL IMPACT: None

Upon motion of Councilman Michalove, seconded by Councilman Tisdale, the consent agenda was unaimously adopted.

COUNCILMAN TISDALE - TERMINATION OF LEASE - PARKING LOT AT THE CORNER OF COLLEGE AND MARKET STREETS

Councilman Tisdale requested that the minutes reflect that the lease of the parking lot at the corner of College and Market Streets was terminated by the owners effective December 1, 1986, and not by the City of Asheville. He said the lease was cancelled so the owners can use the space for themselves. He said the parking lot had previously provided about 20 parking spaces for downtown.

CLAIMS - EARL VAUGHT (SEWER), CLARENCE TAYLOR (TRAFFIC ENGINEERING), ANNIE WHITE (STREETS), CHARLES COLE (PARKS) AND JIM WHEELER (WATER)

7. The Associate City Manager presented claims received from Earl Vaught (Sewer), Clarence Taylor (Traffic Engineering), Annie White (Streets), Charles Cole (Parks), and Jim Wheeler (Water).

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice Mayor Mary Lloyd Frank, Councilmen Wilhelmina Bratton, Kenneth M. Michalove, Norma T. Price and George M. Tisdale; Staff Attorney Patsy Brison; Associate City Manager/City Clerk William F. Wolcott, Jr., and City Manager Doug Bean.

Absent: Councilman Walter R. Boland and Corporation Counsel William F. Slawter.

INVOCATION

The invocation was given by Councilman Price.

APPROVAL OF MINUTES - DECEMBER 2, 1986

1. Consideration was given to the approval of the minutes of the December 2, 1986 meeting.

Mayor Bissette announced the approval of the minutes as submitted.

RESOLUTION NO. 86-216 - A RESOLUTION COMMENDING ASHEVILLE POLICE OFFICERS

2. Consideration was given to a resolution commending Asheville Police Officers.

Mayor Bissette said that during the week of November 20, 1986 law enforcement officials in Henderson County, North Carolina were searching for a man wanted in connection with a series of violent criminal acts. Several Asheville Police Officers and an Alcoholic Board Control Officer volunteered their time and effort in the face of extreme danger to bring this operation to a successful conclusion.

Upon motion of Councilman Price, seconded by Councilman Tisdale, Resolution 86-216 was unanimously adopted.

Complete text of Resolution 86-216 will be found in Resolution Book No. 16 at page 229.

PUBLIC HEARING - SITE PLAN - PROPOSED ADDITION TO PEPSI COLA BOTTLING COMPANY LOCATED IN SWEETEN CREEK INDUSTRIAL PARK

3. A public hearing was held relative to a site plan of a proposed addition to Pepsi Cola Bottling Company located in Sweeten Creek Industrial Park.

Councilman Tisdale said the memo regarding the dog licenses and fees was taken to David Cunningham by the Commissioners and that it might be well for the City Manager to touch base with Mr. Cunningham regarding the outcome.

ADJOURNMENT

Upon motion of Councilman Price, seconded by Councilman Tisdale, the meeting adjourned at 5:15 p.m.

MAYOR

CITY CLERK

2. Add to Section 28-52 (b):
Osborne Road - From Lakeshore Drive to a point 0.09 mile east of Lakeshore Drive.

3. Add to Section 28-52 (c):

(7) Vehicles used primarily for the transportation of passengers, provided that said vehicle is traveling upon an established bus route, or has on board passengers for hire.

4. Add new Section 28-52 (f):

(f) Should any section or provision of this ordinance be declared invalid by any court of competent jurisdiction, such declaration shall not affect the validity of the ordinance as a whole or any part thereof which is not specifically declared to be invalid.

Councilman Price moved to amend the ordinance to include these amendments This motion was seconded by Vice Mayor Frank and carried unanimously.

Mayor Bissette answered questions from Mrs. Davis, a Fairview Road resident, regarding what course of action would be taken if the Police Department failed to respond. Mayor Bissette explained to Mrs. Davis that the Police Department will enforce this ordinance to the best of their ability.

City Manager Doug Bean asked that citizens give the City a call when they see a lot on trucks of these streets during a particular time of day.

Bob McDonald said that signs have been ordered but have not been received. He said the signs will be installed as soon as possible.

On a roll call vote of 6-0, Ordinance No. 1618 passed on third and final reading, as amended.

Complete text of Ordinance No. 1618 will be found in Ordinance Book 11 at pages 101-105.

MOTION - ADOPTION OF URBAN DESIGN PLAN

5. Consideration was given to a motion to adopt the Urban Design Plan.

Mayor Bissette said that last spring, the City of Asheville and Asheville-Buncombe Discovery sponsored the Urban Design Workshops which were structured to allow citizen input into a creative and attainable plan for downtown development. Recently, the Downtown Commission approved the plan in concept. It is recommending that the City Council also endorse the plan in concept. Following that, the Downtown Commission would like to study each of the key areas and priorities of the plan further in order to recommend specific strategies and funding.

Mayor Bissette said the Asheville Planning and Zoning Commission at a meeting held November 12, 1986, reviewed the site plan of a proposed addition to Pepsi Cola Bottling Company located in Sweeten Creek Industrial Park. The Plan was prepared by Southeastern Architects-Engineers for the developer, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of the project subject to compliance with the Erosion Control Ordinance.

Mayor Bissette opened the public hearing at 4:17 p.m.

The City Clerk presented the notice to the public setting the time and date of the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said this would be an addition of 37,000 square feet of space to Pepsi Cola Bottling Company.

Mayor Bissette closed the public hearing at 4:19 p.m.

Councilman Price moved to approve the site plan subject to compliance with the Erosion Control Ordinance. This motion was seconded by Councilman Michalove and carried unanimously.

ORDINANCE NO. 1618 - AN ORDINANCE TO REGULATE THE TRAFFIC OF TRUCKS ON DESIGNATED RESIDENTIAL STREETS IN THE CITY OF ASHEVILLE

4. Consideration was given to the third reading of Ordinance No. 1618, an ordinance to regulate the traffic of trucks on designated residential streets in the City of Asheville.

Mayor Bissette said members of Council were previously presented copies of the ordinance and it had passed on first and second reading.

Mayor Bissette read the following proposed amendments to the truck ordinance:

1. Amend Section 28-52, (a) Definitions to read as follows:

(a) Definitions

(1) Gross Vehicle Weight (GVW) - for the purposes of this section, the term "Gross Vehicle Weight (GVW)" shall be the weight of any single axle, tandem axle, or axle group of a vehicle or combination of vehicles plus the weight of any load thereon.

(2) Truck -For the purposes of this Section, the term "truck" shall mean vehicles that have any of the following characteristics:

(a) Any vehicle with a Gross Vehicle Weight (GVW) rating of 10,000 pounds or more.

(b) Any tandem axle or tri-axle vehicle.

(c) Tractor and tandem tractor vehicles when pulling semi-trailers or tandem semi-trailers.

RESOLUTION NO. 86-218 - A RESOLUTION GUARANTEEING A FLOOR OF BENEFITS TO MEMBERS OF THE ASHEVILLE POLICEMENS' PENSION AND DISABILITY FUND

7. Consideration was given to a resolution guaranteeing a floor of benefits to members of the Asheville Policemen's Pension and Disability Fund.

Mayor Bissette said this resolution will direct the City Manager to take necessary administrative action to ensure that members of the Asheville Policemen's Pension and Disability Fund in the future be paid any supplement necessary by the City of Asheville to compensate for any difference in monthly retirement benefits between that amount that they may in the future be entitled to under the North Carolina Local Governmental Employees' Retirement System and that which they would have been entitled to under the Asheville Policemen's Pension and Disability Fund.

Mayor Bissette said copies of the resolution had been previously furnished to members of Council and the resolution would not be read in its entirety.

Upon motion of Councilman Tisdale, seconded by Vice Mayor Frank Resolution No. 86-218 was unanimously adopted.

Complete text of Resolution No. 86-218 will be found in Resolution Book No. 16 at page 231.

RESOLUTION NO. 86-219 - RESOLUTION AUTHORIZING AN INCREASE IN BENEFITS TO CERTAIN BENEFICIARIES OF THE ASHEVILLE POLICEMENS' PENSION AND DISABILITY FUND

8. Consideration was given to a resolution authorizing an increase in benefits to certain beneficiaries of the Asheville Policemen's Pension and Disability Fund.

Mayor Bissette said the City Council desires to grant increased benefit payments to those beneficiaries such that those persons receiving normal retirement payments and disability payments shall receive at least Four Hundred Dollars ($400.00) per month and those persons receiving survivors' payments shall receive at least Two Hundred Dollars ($200.00) per month.

Mayor Bissette said copies of the resolution had been previously distributed to members of Council and the resolution would not be read in its entirety.

Jim Coffee, a retired Police Officer, said he was elated with the plan and thanked Council for their time and efforts.

Upon motion of Councilman Tisdale, seconded by Councilman Michalove, Resolution No. 86-219 was unanimously adopted.

Complete text of Resolution No. 86-219 will be found in Resolution Book No. 16 at page 232.

Mayor Bissette said the plan had been reviewed in Pre-Council and that Council has some concerns about endorsing the total plan in concept. He said Council is concerned that it would be misleading and confusing because there are so many different parts and details in the plan. He said Council would prefer to accept the plan for information purposes and to urge the Downtown Commission to continue a detailed review and come back with specific recommendations to be enacted.

Mr. Robert Carr, Chairman of the Downtown Commission, said the Commission would honor the request and acknowledged that some parts of the plan are not feasible. He said the plan gives a framework, a starting point, and that the Commission is happy to have Council's directions and that they are prepared to proceed and continue with the process.

Karen Fields, Director of Discovery, said she wanted to encourage support from City Council and to ask that they continue moving on with the plan.

Councilman Michalove said that even though the Council doesn't expect to adopt the plan today, when a project comes before the Commission, it is going to take a while to go through the process from start to finish. He said until such time as the plan is finalized, the Commission will be able to refer to the book to determine whether or not they are moving in the right direction.

Councilman Price moved for Council to accept the Urban Design Plan for informational purposes, and that Council urge the Downtown Commission to continue to review and study specific designs of the plan keeping the Council informed during their process. This motion was seconded by Vice Mayor Frank and carried unanimously.

RESOLUTION NO. 86-217 - RESOLUTION ADJUSTING RENTAL RATE STRUCTURE FOR THE ASHEVILLE CIVIC CENTER FACILITIES

6. Consideration was given to a resolution adjusting rental rate structure for the Asheville Civic Center Facilities.

Mayor Bissette said the Asheville Area Civic Center Commission is continuing to pursue its prime objective of operating the Civic Center Complex with the lowest possible subsidies from the City's General Fund. The Commission is of the opinion that there is a need to eliminate an incentive discount for various spaces leased at the Civic Center. This resolution will amend Resolution 81-74 by adjusting rental fees to be charged and regulations for use of the various spaces within the Civic Center.

Bill Murphy, Civic Center Director, said this would be an adjustment to the rental rates and that the base rate would stay the same.

Upon motion of Councilman Michalove, seconded by Councilman Bratton Resolution No. 86-217 was unanimously adopted.

Complete text of Resolution No. 86-217 will be found in Resolution Book No. 16 at page 230.

Mayor Bissette said copies of the resolution had previously been distributed to members of Council and the resolution would not be read in its entirety.

Upon motion of Councilman Price, seconded by Vice Mayor Frank, Resolution No. 86-221 was unanimously adopted.

Complete text of Resolution No. 86-221 will be found in Resolution Book No. 16 at page 234 and 235.

RESOLUTION NO. 86-222 - A RESOLUTION REQUESTING CERTIFICATION OF PLAN ASSETS BY THE BOARD OF TRUSTEES OF THE ASHEVILLE POLICEMENS' PENSION AND DISABILITY FUND TO THE NORTH CAROLINA LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM

11. Consideration was given to a resolution requesting certification of plan assets by the Board of Trustees of the Asheville Policemens' Pension and Disability Fund to the North Carolina Local Governmental Employees' Retirement System.

Mayor Bissette said this resolution will request that the Board of Trustees of the Asheville Policemens' Pension and Disability Fund certify the proportion, if any, of the funds of the Asheville Policemens' Pension and Disability Fund that represents the accumulated contributions of the members, and the relative shares of the members as of that date and will also transfer any cash and securities to the North Carolina Local Governmental Employees' Retirement System.

Mayor Bissette said copies of the resolution had previously been distributed to members of Council and the resolution would not be read in its entirety.

Upon motion of Vice Mayor Frank, seconded by Councilman Bratton Resolution No. 86-222 was unanimously adopted.

Complete text of Resolution No. 86-222 will be found in Resolution Book No. 16 at page 236.

CONSENT AGENDA

12. Consideration was given to a motion approving the consent agenda.

Mayor Bissette said the following items are of a routine nature and they have been previously reviewed by the members of the City Council. Therefore, by unanimous vote to approve these items, the City Council may, pursuant to the procedures established in Ordinance No. 1008, adopt all of the items with one motion without the full reading and/or separate motion adopting each individual item. Upon the request of a citizen, a member of the City Council, and/or a member of the City staff, any single item scheduled for approval on the consent agenda may be considered separately.

RESOLUTION NO. 86-220 - A RESOLUTION TO AUTHORIZE PAYMENTS TO CERTAIN MEMBERS OF THE ASHEVILLE POLICEMENS' PENSION AND DISABILITY FUND FOR THE PRESENT VALUE OF ACCRUED BENEFITS UNDER THE LAW ENFORCEMENT OFFICERS' RETIREMENT SYSTEM

9. Consideration was given to a resolution to authorize payments to certain members of the Asheville Policemens' Pension and Disability Fund for the present value of Accrued Benefits under the Law Enforcement Officers' Retirement System.

Mayor Bissette said prior to January 1, 1986, certain members of the Asheville Police Pension Disability Fund were contributing members to the Law Enforcement Officers Retirement System of the State of North Carolina. Effective January 1, 1986, the North Carolina Legislature merged the LEO Retirement System into the North Carolina Local Governmental Employees' Retirement System. This resolution will authorize the City Manager to take the necessary administrative action to compensate those members of the Asheville Policemen's Pension and Disability Fund who had in the past contributed to the LEO Retirement System, and who have not retired, in the amount of the present value of their accrued benefits under the LEO System in accordance with the tables prepared by the Police Pension Fund Plan Actuary; provided that the enrollment of members of the Asheville Policemen's Pension & Disability Fund is approved by the Board of Trustees of the North Carolina Local Governmental Employees Retirement System.

Mayor Bissette said copies of the resolution had previously been distributed to members of Council and the resolution would not be read in its entirety.

Vice Mayor Frank said she was very appreciative of Doug Franklin for all of his work on this plan.

Upon motion of Vice Mayor Frank, seconded by Councilman Bratton Resolution No. 86-220 was unanimously adopted.

Complete text of Resolution No. 86-220 will be found in Resolution Book No. 16 at page 233.

RESOLUTION NO. 86-221 - A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN APPLICATION FOR ENROLLMENT OF EMPLOYEES TO EFFECT PARTICIPATION OF THE ASHEVILLE POLICEMENS' PENSION AND DISABILITY FUND MEMBERS IN THE NORTH CAROLINA LOCAL GOVERNMENT EMPLOYEES' RETIREMENT SYSTEM.

10. Consideration was given to a resolution authorizing the Mayor to execute an application for enrollment of employees to effect participation of the Asheville Policemen's Pension and Disability Fund members in the North Carolina Local Governmental Employees' Retirement System.

Mayor Bissette said North Carolina General Statute Section 128-25 provides for election by members of a local pension system to become members of the North Carolina Local Governmental Employees' Retirement System. A vote was held and petitions were duly signed by more than sixty percent (60%) of the members of the Asheville Policemens' Pension and Disability Fund on December 3, 1986. The North Carolina General Statutes provide that any governmental unit desiring to enroll its employees in the system shall make application to the Board of Trustees of the North Carolina Local Governmental Employees' Retirement System and shall by resolution elect to participate in the system. He said this resolution authorizes the Mayor to execute the necessary application.

HIGHLIGHTS: This resolution will authorize the Mayor to execute an easement agreement by and between the City of Asheville and Fitzgerald Brake Supply, Inc. for the installation and maintenance of a communication link from City Hall to the City owned facility on Hunt Hill Street.

Resolution Book 16 at page 239.

D. RESOLUTION NO. 86-226 - Resolution reappointing member to the Board of Adjustment.

HIGHLIGHTS: This resolution will reappoint Wade H. Thomas, Sr. as a member of the Board of Adjustment for a three (3) year term, term expiring January 21, 1990.

Resolution Book 16 at page 240.

RESOLUTION NO. 86-227 - A RESOLUTION DIRECTING THE CITY CLERK TO ADVERTISE AN OFFER FOR THE PURCHASE OF PROPERTY OWNED BY THE CITY OF ASHEVILLE AND COUNTY OF BUNCOMBE AND KNOWN AS THE FEE SIMPLE TITLE TO THE LAND LEASED FOR WESTGATE SHOPPING CENTER

13. Consideration was given to a resolution directing the City Clerk to advertise an offer for the purchase of property owned by the City of Asheville and County of Buncombe and known as the fee simple title to the land leased for Westgate Shopping Center.

Mayor Bissette said the City of Asheville and the County of Buncombe have received an offer from George B. Coggins and wife, Margo B. Coggins, to purchase property owned by the City of Asheville and the County of Buncombe and known as the fee simple title to the land leased for the Westgate Shopping Center. The offer to purchase is in the amount of not less than $560,000 plus the additional cost of advertising the offer and appraisal of the property. This resolution will direct the City Clerk of the City of Asheville to advertise a notice of the offer received.

Mayor Bissette said copies of the resolution had previously been distributed to members of Council and the resolution would not be read in its entirety.

Upon motion of Councilman Tisdale, seconded by Vice Mayor Frank Resolution No. 86-227 was unanimously adopted.

Complete text of Resolution No. 86-227 will be found in Resolution Book No. 16 at page 241.

COUNCILMAN TISDALE - INSURANCE COVERAGE - ASHEVILLE TRANSIT AUTHORITY

14. Councilman Tisdale said at last month's Transit Authority Meeting, they were given a report by Gary Miller that he had met with the City's Attorney, Mr. Slawter, to discuss the possibility of getting lower insurance rates. He said the policy discussed would cost $103,600 and would provide $300,000 in coverage. He said the Asheville Transit Authority presently has a policy which costs $86,000 and provides $1,000,000 in coverage.

A. Resolution No. 86-223 - Resolution authorizing the Mayor to execute an agreement with the North Carolina Department of Transportation.

HIGHLIGHTS: This resolution will authorize the Mayor to execute an agreement with the North Carolina Department of Transportation and will allow the Traffic Engineering Division to assist the North Carolina Department of Transportation with traffic signal installations, at six (6) intersections, in conjunction with other traffic improvements within the City. The North Carolina Department of Transportation has requested assistance from the City in order to expedite completion of these projects.

Resolution Book No. 16 at page 237.

B. Resolution No. 86-224 - Resolution authorizing the Mayor to execute on behalf of the City of Asheville an agreement by and among the City of Asheville, Pack Plaza Associates Limited Partnership on behalf of the City of Asheville an agreement by and among the City of Asheville, Pack Plaza Associates Limited Partnership, J. Bertram King and Wachovia Bank and Trust Company providing for an independent inspecting representative for the Pack Plaza Project.

HIGHLIGHTS: It is necessary for the City of Asheville to have inspections made of the Pack Plaza Project for the UDAG Agreement for the Project. The Commitment letter for the conventional loan financing for the Pack Plaza Project requires an Independent Inspecting Representative before payments will be advanced to the developer for the Pack Plaza Project. J. Bertram King, FAIA, Architects, has been selected to provide the inspections on behalf of the City and on behalf of the lender group for the Pack Plaza Project. This resolution will authorize the Mayor to execute the necessary agreement. Total fees paid to be no more than $36,600.00. The City will pay 36.5%, or no greater than $13,359.00. Pack Plaza Associates Limited Partnership will pay 63.5%, being the balance of the fees due.

Resolution Book 16 at page 238

C. RESOLUTION NO. 86-225 - Resolution authorizing the Mayor to accept an easement from Fitzgerald Brake Supply, Inc. for the purpose of constructing and maintaining an overhead communications link through its property at 50 McCormick Place.

Tuesday - December 16, 1986 - 4:00 p.m.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Mary Lloyd Frank; Councilmen Wilhelmina Bratton, Walter R. Boland; Kenneth M. Michalove, Norma T. Price, and George M. Tisdale; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and City Clerk/Associate City Manager William F. Wolcott, Jr.

Absent: None

INVOCATION

1. Vice-Mayor Frank introduced John Robert Long, a neighbor and student at Ira B. Jones School, who gave the invocation.

PROCLAMATION - DECEMBER 16 - 21, 1986 - "UP WITH PEOPLE WEEK"

2. Mayor Bissette read a proclamation proclaiming December 16 - 21, 1986, as "Up With People Week".

Mayor Bissette presented the proclamation to David Grissom, President of Optimist's Club of Fletcher, Sue Dymoke and Todd Hartley, both with Up With People.

PROCLAMATION - HILL HAVEN REHABILITATION AND CONVALESCENT CENTER - 1986 "NORTH POLE SUBSTATION"

2a. Mayor Bissette read a proclamation proclaiming Hill Haven Rehabilitation and Convalescent Center as a 1986 "North Pole Substation".

Mayor Bissette presented the proclamation to Natalie Frost and one of the residents of the Hill Haven Rehabilitation and Convalescent Center.

Natalie Frost for the Hill Haven Rehabilitation and Convalescent Center said the "Ho Ho Hotline" was established about three years in order to get the residents involved in the community and with Christmas activities. She said they have received excellent results and the residents have received numerous calls from children in the area.

APPROVAL OF MINUTES - DECEMBER 9, 1986 MEETING

3. Consideration was given to the approval of the minutes of the December 9, 1986 meeting.

Mayor Bissette announced the approval of the minutes as submitted.

PUBLIC HEARING - SITE PLAN OF PROPOSED K-MART SHOPS OF ASHEVILLE - SOUTH TUNNEL ROAD (BENEATH BEAUCATCHER CINEMAS PARKING DECK)

4. A public hearing was held relative to a site plan of the proposed K-Mart Shops of Asheville to be located on South Tunnel Road (beneath Beaucatcher Cinemas Parking Deck).

Mayor Bissette said his law firm represents the developer and requested that he be excused from participation and vote on this issue.

Councilman Tisdale said the Authority was made aware of this information and they will maintain their present policy.

CLAIMS - STEVE RAY (AUTO LIABILITY/WATER)

15. The City Manager presented a claim received from Steve Ray (Auto/Liability/Water).

Mayor Bissette referred the claim to the Corporation Counsel for investigation and recommendation.

RALPH BISHOP - LOTTERY SALES

16. Ralph Bishop spoke to the Council about lottery sales in the City of Asheville.

ADJOURNMENT

Upon motion of Councilman Tisdale, seconded by Councilman Price, the meeting adjourned at 5:15 p.m.

MAYOR

CITY CLERK

Verl Emrick, Director of Planning, said Council had previously approved 42 units for the Sand Hill Mobile Home Park. He said this addition would include 10 units. He said the proposed addition is in compliance with all ordinances and codes of the City of Asheville. He said the Planning & Zoning Commission had recommended approval of this project subject to compliance with the Erosion Control Ordinance and a provision that a 20' buffer strip be located on the northern property line.

Mayor Bissette closed the public hearing at 4:24 p.m.

Councilman Tisdale moved for the approval of the site plan of the proposed addition to Sand Hill Mobile Home Park located at 710 Sand Hill Road subject to compliance with the Erosion Control Ordinance and that a 20' planted buffer strip be located on the northern property line. This motion was seconded by Councilman Price and carried unanimously.

PUBLIC HEARING - SITE PLAN - PROPOSED ADDITION TO ASTON PARK HEALTH CARE CENTER

5. A public hearing was held relative to the site plan of the proposed addition to Aston Park Health Care Center located at 380 Brevard Road.

Mayor Bissette said that since his firm represents Aston Park Health Care Center, he would ask to be excused from participation and vote on this issue.

Councilman Price moved to excuse Mayor Bissette from participation and vote on the proposed addition to Aston Park Health Care Center. This motion was seconded by Councilman Tisdale and carried unanimously.

Vice-Mayor Frank said the Asheville Planning and Zoning Commission at a meeting held November 12, 1986, reviewed the site plan of a proposed addition to Aston Park Health Care Center located at 380 Brevard Road. The plan was prepared by Larry Traber, Architect, for the developer, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of the project subject to compliance with the Erosion Control Ordinance.

Vice-Mayor Frank opened the public hearing at 4:26 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said the proposed addition would include a 1,000 sq. ft. freestanding laundry room and a 3,200 sq. ft. maintenance building. He said the project complies with all ordinances and codes of the City of Asheville. He said the Planning and Zoning Commission had recommended approval of the project subject to compliance with the Erosion Control Ordinance.

Vice-Mayor Frank closed the public hearing at 4:27 p.m.

Councilman Michalove moved to approve the site plan of the proposed addition to Aston Park Health Care Center located at 380 Brevard Road subject to compliance with the Erosion Control Ordinance. This motion was seconded by Councilman Price and carried unanimously.

Councilman Price moved to excuse Mayor Bissette from participation and vote relative to the site plan of the proposed K-Mart Shops located on South Tunnel Road. This motion was seconded by Councilman Tisdale and carried unanimously.

Vice-Mayor Frank said the Asheville Planning and Zoning Commission at a meeting held November 12, 1986, reviewed the site plan of the proposed K-Mart Shops of Asheville to be located on South Tunnel Road (beneath Beaucatcher Cinemas Parking Deck). The plan was prepared by Danie Johnson, Architect, for Mr. Edward I. Greene, Developer, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of the project subject to compliance with the Erosion Control Ordinance.

Vice-Mayor Frank opened the public hearing at 4:16 p.m.

The City Clerk presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said the project would include an additional 7,000 sq. ft. of retail space underneath the parking deck of the Beaucatcher Cinemas. He said the land would be leased from the K-Mart Plaza and the project was in compliance with all ordinances and codes of the City of Asheville. He said the Planning & Zoning Commission had recommended approval of the project subject to the final approval of Erosion Control Ordinance and that the signage on the facade be limited to 25 sq. ft.

Vice-Mayor Frank closed the public hearing at 4:19 p.m.

Councilman Michalove moved to approve the site plan of the proposed K-Mart Shops of Asheville to be located on South Tunnel Road subject to compliance with the Erosion Control Ordinance and signage on the facades be limited to 25 sq. ft. This motion was seconded by Councilman Bratton and carried unanimously.

PUBLIC HEARING - ADDITION TO SAND HILL MOBILE HOME PARK - 710 SAND HILL ROAD

4. A public hearing was held relative to the site plan of the proposed addition to Sand Hill Mobile Home Park located at 710 Sand Hill Road.

Mayor Bissette said the Asheville Planning and Zoning Commission at a meeting held on November 12, 1986, reviewed the site plan of a proposed addition to Sand Hill Mobile Home Park located at 710 Sand Hill Road. The plan was prepared by Kenneth Pankow, Engineer, for Mr. Tom Pinkerton, Developer, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of the project subject to compliance with the Erosion Control Ordinance and provision of a 12" buffer on the North boundary line.

Mayor Bissette opened the public hearing at 4:20 p.m.

The City Clerk presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

ORDINANCE NO. 1620 - ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE", AS AMENDED (HANDICAPPED OFF-STREET PARKING)

7. Consideration was given to an ordinance amending Ordinance No. 322, known as "an ordinance providing for the zoning of the City of Asheville", as amended relative to handicapped off-street parking.

Mayor Bissett said this ordinance will amend Section 30-3-11 of Article 3. General Provisions to include the following exemption to paragraph (1)(d) "Mobile Home Parks which are subject to Article 6 of this Ordinance (Group Development/Planned Unit Developments)." Adoption of the ordinance will exempt mobile home parks from complying with handicapped off-street parking requirements.

Councilman Price moved for the adoption of Ordinance No. 1620. This motion was seconded by Councilman Boland.

On a roll call vote of 7-0, Ordinance No. 1620 passed on first reading.

Councilman Michalove moved to suspend the rules and proceed with the second reading of Ordinance No. 1620. This motion was seconded by Vice-Mayor Frank and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1620 passed on second reading.

Councilman Michalove moved to suspend the rules and proceed with the third reading of Ordinance No. 1620. This motion was seconded by Vice-Mayor Frank and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1620 passed on third reading.

Complete text of Ordinance No. 1620 will be found in Ordinance Book No. 11 at page 106.

SCHEDULING PUBLIC HEARING - REZONING PROPERTY LOCATED AT 218 EAST CHESTNUT STREET (MR. CHRIS PETERSON PETITIONER)

8. Consideration was given to a motion scheduling a public hearing relative to a request to rezone property located at 218 East Chestnut Street, Ward 2, Sheet 16, Lot 138 (Mr. Chris Peterson, Petitioner) for January 6, 1987.

Mayor Bissette said on November 12, 1986, the Asheville Planning and Zoning Commission considered the petition of Mr. Chris Peterson that Ward 2, Sheet 16, Lot 138 (218 E. Chestnut St.) be rezoned from R-4 Residential District to CG Commercial General District. After review and discussion, the Commission voted to recommend that the petition be denied and that the property remain as it is now zoned. On December 10, 1986, the City Clerk received written notice of appeal from the petitioner for this matter to be heard by the City Council. This motion will schedule a public hearing on January 6, 1987.

Councilman Boland moved to schedule a public hearing relative to the rezoning of property located at 218 E. Chestnut Street for January 6, 1987. This motion was seconded by Councilman Tisdale and carried unanimously.

PUBLIC HEARING - MODIFIED SITE PLAN OF THE OXFORD/ASHEVILLE RETIREMENT CENTER

6. A public hearing was held relative to the modified site plan of the Oxford/Asheville Retirement Center.

Mayor Bissette said the Asheville Planning and Zoning Commission at a meeting held November 12, 1986, reviewed a modified site plan of the Oxford/Asheville Retirement Center. The project to be named "Chambrel of Asheville" is located on Hendersonville Road. The site plan was prepared by Land Design, Architects, for the Oxford Development Corporation, both of Charlotte, North Carolina, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of the project subject to compliance with the Erosion Control Ordinance; to recommend that City Council grant a variance to permit .9 parking spaces per unit, and confirmation by Board of Adjustment of Conditional Use in the R-3 District approved February 3, 1986.

Mayor Bissette opened the public hearing at 4:20 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said the project had previously been approved by City Council. He said the modified site plan is requesting approval of an additional 25 units making a total of 325 units for the project. He said the project would consist of 20 buildings which would be 3 and 4 story structures. He said the modified plan shows a reduction of 3 buildings. He said the project would not be visible from the Blue Ridge Parkway. He said it is his understanding that the Homeowner's Association of Deerwood Condominiums is supportive of the project. He said the entrance to the project would be the Hendersonville Road.

He said the Planning and Zoning Commission had recommended approval of the project subject to compliance with the Erosion Control Ordinance, and that City Council grant a variance to permit .9 parking spaces per unit as recommended by the Board of Adjustment and that the motion for approval include approval of Phase II in concept being the nursing home portion of the project.

Mr. Little, with Oxford Development Company, briefly explained the modified plans and said the project should start next spring or summer.

Mayor Bissette closed the public hearing at 4:35 p.m.

Vice-Mayor Frank moved to approve the modified site plan of the Oxford/Asheville Retirement Center subject to the Erosion Control Ordinance and to grant a variance to permit .9 parking spaces per unit as recommended by the Board of Adjustment and that the City Council approve in concept the nursing home phase of the project. This motion was seconded by Councilman Tisdale and carried unanimously.

Upon motion of Vice-Mayor Frank, seconded by Councilman Michalove, Resolution No. 86-228 was unanimously adopted.

Complete text of Resolution No. 86-228 will be found in Resolution Book No. 16 at page 242.

RESOLUTION NO. 86-229 - RESOLUTION AUTHORIZING THE MAYOR TO ACCEPT ON BEHALF OF THE CITY OF ASHEVILLE A GRANT OF PRESERVATION RESTRICTIONS AND COVENANTS FOR DEVELOPMENT RIGHTS OF THE "OLD PACK MEMORIAL LIBRARY BUILDING"

12. Consideration was given to a resolution authorizing the Mayor to accept on behalf of the City of Asheville a grant of preservation restrictions and covenants for development rights of the "Old Pack Memorial Building".

Mayor Bissette said the Pack Plaza Associates, Limited Partnership, desires to grant to the City of Asheville an easement providing for certain preservation restrictions and covenants with regard to the development rights to the Old Pack Memorial Library Building. He said this resolution would authorize the Mayor on behalf of the City of Asheville to accept the easement granting preservation restrictions and covenants with regard to the development rights for the Old Pack Memorial Building.

Upon motion of Vice-Mayor Frank, seconded by Councilman Michalove, Resolution No. 86-229 was unanimously adopted.

Complete text of Resolution No. 86-229 will be found in Resolution Book No. 16 at page 243.

PRESENTATION OF PETITION - KENILWORTH FOREST COMMUNITY CLUB AND/OR RESIDENTS - INTERSECTION OF WHITE PINE DRIVE

13. The City Manager presented a petition received from the Kenilworth Forest Community Club and residents relative to a traffic problem that threatens the safety of the residents entering White Pine Drive, school buses and shoppers tending to use the mall entrance beside the International House of Pancakes. The petition states that presently automobiles headed west on Tunnel Road wishing to turn left onto White Pine Drive must do so against two lanes of traffic going east without the benefit of a left turn signal. The petitioners requested a left turn signal for westbound traffic at the intersection of White Pine Drive and Tunnel Road.

The City Manager said the Traffic Engineer has conducted a traffic count in the area, and has furnished the information to the N. C. Department of Transportation. He said the City would be working with the N. C. Department of Transportation on this request.

CLAIMS - HARRY JAMES (STREETS) - PATRICIA MCINTOSH (STREETS) - HELEN HENDON (SEWER)

14. The City Manager presented claims received from Harry James, Patricia McIntosh, and Helen Hendon.

Mayor Bissette referred the claims to the Corporation Counsel for investigation and recommendation.

Councilman Michalove requested that the City Manager determine if Chris Peterson is the owner of the property and whether or not the property is under some type of option at the present time.

BIDS - ONE REFUSE COLLECTION VEHICLE - TRUCK WITH PACKER BODY FOR PUBLIC WORKS DEPARTMENT, SANITATION DIVISION

9. Consideration was given to approval of bids for one refuse collection vehicle - truck with packer body for Public Works Department, Sanitation Division.

Mayor Bissette said sealed bids were received pursuant to N.C. General Statute 143-129 to furnish one (1) refuse collection vehicle to the Public Works Department, Sanitation Division. Three bids were received - Western Carolina Truck Center, Inc. Asheville, NC - $83,120.76; Sanco Corporation, Winston-Salem, NC - $85,221.00; and Cavalier Equipment Corporation, Roanoke, VA - $85,557.00. T. Clark Brown, Director of Public Works, has reviewed these bids for technical compliance to specifications and confirms that the low bid from Western Carolina Truck Center, Inc. does meet specifications. Mr. Brown recommends awarding the bid to Western Carolina Truck Center, Inc. for a 1987 "White Expeditor" model WX64 cab and chassis with a "Heil" Formula 5000 packer body and a "ARS" dumping unit at a cost of $83,120.76. Funds for this purchase are provided in the Revenue Sharing Fund, Sanitation Division, Account No. 50-428-0740.

Councilman Price moved to approve the low bid of Western Carolina Trucks Center, Inc. in the amount of $83,120.76 for the refuse collection vehicle truck with packer body. This motion was seconded by Councilman Boland and carried unanimously.

COMMENTS BY COUNCILMAN TISDALE - RENOVATION OF CITY HALL BUILDING

10. Councilman Tisdale said the Asheville City Council members had scheduled a retreat for February 14th and 15th. He said it is his understanding that the City's capital plans for the next five years will be discussed. He said since the renovation of the City Hall Building will be included in the discussion, he requested that the City Manager determine the long-range plans of the Asheville City Schools and other tenants in the City Hall Building prior to that retreat. He also requested a tour of the City Hall Building and the Municipal Building. He requested that the City Manager determine whether or not the Asheville City Schools are paying rent to the City for the use of the lower level of the Muncipal Building.

RESOLUTION NO. 86-228 - RESOLUTION AUTHORIZING THE MAYOR TO ACCEPT AN EASEMENT AMENDING THE EXISTING PERPETUAL CONSERVATION FACADE EASEMENT FOR THE OLD PACK MEMORIAL LIBRARY BUILDING

11. Mayor Bissette said the Pack Plaza Associates, Limited Partnership, is in the processing of constructing a redevelopment project in the Pack Plaza Redevelopment Area. He said the old Pack Memorial Library Building is included within that project and Pack Plaza Associates, Limited Partnership, desires to grant to the City of Asheville an easement amending the existing perpetual conservation facade easement for the old Pack Memorial Library Building. He said this resolution would authorize the Mayor to accept on behalf of the City a grant of the preservation, restrictions, and covenants which amends the existing perpetual conservation facade easement for the old Pack Memorial Library Building.

Tuesday - December 23, 1986 - 4:00 p.m.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Mary Lloyd Frank; Councilmen Walter R. Boland; Kenneth M. Michalove, Norma T. Price, and George M. Tisdale; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Councilman Wilhelmina Bratton

INVOCATION

The invocation was given by Councilman Ken Michalove.

APPROVAL OF MINUTES - DECEMBER 16, 1986 MEETING

1. Consideration was given to the approval of the minutes of the December 16, 1986, meeting.

Mayor Bissette announced the approval of the minutes as submitted.

PUBLIC HEARING - REZONING PROPERTY LOCATED ON CAMPGROUND ROAD (R. S. CRAIG, PETITIONER)

ORDINANCE NO. 1621 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE", AS AMENDED, PETITION FOR MR. R. S. CRAIG, PROPERTY LOCATED ON U.S. 70, EAST AT CAMPGROUND ROAD

2. A public hearing was held relative to rezoning property located on Campground Road for R. S. Craig, Petitioner.

Mayor Bissette said on August 19, 1986, City Council requested the Planning and Zoning Commission to consider rezoning Ward 8, Sheet 31, Lot 16, from R-2 Residential District to CH Commercial Highway District. The Commission reviewed this request at their October 8, 1986, meeting. After review and discussion, the Commission voted to recommend to City Council that Ward 8, Sheet 31, Lot 16, be rezoned from R-2 Residential District to R-4 Residential District with applicable buffering.

Mayor Bissette opened the public hearing at 4:10 p.m.

The City Clerk presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said the Planning and Zoning Commission had reviewd and discussed the rezoning of Ward 8, Sheet 31, Lot 16 and still felt that to zone the property commercial highway district would be too intense. He said the Commission did recommend to Council that the property be rezoned from R-2 Residential District to R-4 Residential District with applicable buffering. He said this zone would allow uses other than residential such as professional offices, beauty shops, etc. He said it is his understanding that the petitioner is proposing a greenhouse for the property. He said a greenhouse would be allowable under the R-4 Residential District.

RALPH BISHOP - COMMENTS RELATIVE TO NEW FIRE CHIEF

15. Ralph Bishop spoke to members of Council relative to his dissatisfaction with the City Manager going out of town to hire a new Fire Chief. He said he also felt that the new Fire Chief and the City Manager had made a mistake in taking out alarm boxes.

Mayor Bissette responded that the proposal to take out fire alarm boxes was made prior to Chief Rukavina coming to work for the City of Asheville. He said it has been proven that alarm boxes don't always work and that the numerous false alarm calls are received from malicious youths pulling fire alarm boxes.

ADJOURNMENT

Councilman Price moved to adjourn the meeting at 5:00 p.m. This motion was seconded by Vice-Mayor Frank and carried unanimously.

Mayor

City Clerk

the fee simple title to the land leased for Westgate Shopping Center. This property is owned jointly with the County of Buncombe, and the County also authorized advertisement of the property for sale. No upset bids have been made for the property.

Mayor Bisette said members of Council were previously furnished copies of the resolution and it would not be read in its entirety. He said any one desiring a copy of the resolution would be furnished one.

Upon motion of Councilman Michalove, seconded by Councilman Tisdale, Resolution No. 86-230 was unanimously adopted.

Complete text of Resolution No. 86-230 will be found in Resolution Book No. 16 at page ~~244~~ 245 and ~~245~~ 246.

RESOLUTION NO. 86-231 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN ENCROACHMENT AGREEMENT WITH MARTIN E. HARE AND WIFE, BARBARA S. HARE

4. Consideration was given to a resolution authorizing the Mayor to execute an encroachment agreement with Martin E. Hare and wife, Barbara S. Hare.

Mayor Bissette said Martin E. Hare and wife, Barbara S. Hare are the owners of property located at the southeastern intersection of Wilbar Street and Coxe Avenue. There is a commercial building located upon said property which encroaches upon the right-of-way of the City of Asheville on Wilbar Street. This encroachment was due to a mistake on the part of the Hares at the time of construction of the building and was unintentional. This resolution will authorize the Mayor to execute an agreement authorizing the encroachment of the building on the right-of-way of Wilbar Street.

Mayor Bissette said members of Council were previously furnished copies of the resolution and it would not be read in its entirety. He said any individual requesting a copy of the resolution would be furnished one.

Upon motion of Vice-Mayor Frank, seconded by Councilman Price, Resolution No. 86-231 was unanimously adopted.

Complete text of Resolution No. 86-231 will be found in Resolution Book No. 16 at page ~~246~~ 247.

SCHEDULING PUBLIC HEARING - SITE PLAN OF BILTMORE PARKWAY CENTRE TO BE LOCATED ON HENDERSONVILLE ROAD

5. Consideration was given relative to a site plan of Biltmore Parkway Centre to be located on Hendersonville Road for January 13, 1987.

Mayor Bissette said the Asheville Planning and Zoning Commission, at a meeting held December 10, 1986, reviewed a site plan of Biltmore Parkway Centre to be located on Hendersonville Road. The site plan was prepared by Danie Johnson, Architect, for Biltmore Centre Limited Partnership, Developer, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to approve the project subject to: 1) provision of a 20' buffer on the north boundary line; 2) approval of signage package; 3) compliance with Tree Ordinance; 4) approval of curb cut by N.C. Department of Transportation; and 5) reapply for grading permit and compliance with Erosion Control Ordinance.

Mr. Earick said the Commission also recommended that if Council approves the rezoning that the motion for the rezoning include a recommendation to the North Carolina Department of Transportation that no direct access be given to U.S. 70.

Lee Towery, representing the petitioner, said the R-4 Residential District or any other residential district would not be conducive to any retail use of the property. He said, in his opinion, the property is designed for high traffic use since it borders Tunnel Road. He said he had contacted all property owners adjoining the property and none have objections. He said they would not support the rezoning or oppose it. He said he did not feel the property would be best used except under a commercial zone.

After discussion, Mayor Bissette closed the public hearing at 4:21 p.m.

Mayor Bissette said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety. He said any individual desiring a copy of the ordinance would be furnished one.

Councilman Tisdale moved for the adoption of Ordinance No. 1621 with applicable buffering and a recommendation to the North Carolina Department of Transportation that no direct access be given to U.S. 70. This motion was seconded by Councilman Boland.

Upon inquiry of Councilman Michalove, Mr. Towery said the Craigs' are the present owners of the property, and he felt the R-4 Residential District would be of no use to the owners.

Councilman Michalove said, in his opinion, it might be worthwhile not to rezone the property at the present time but to consider rezoning this property in the proposed overall comprehensive rezoning plan.

Mayor Bissette and Councilman Tisdale said they felt the R-4 Residential District zone would make the property more marketable.

Councilmembers asked that Mr. Towery have the Craigs respond in writing, by a letter to Mayor Bissette, which would indicate whether or not they want the property rezoned to R-4 Residential District.

On a roll call vote of 5-1, Ordinance No. 1621 passed on first reading with Councilman Michalove voting "no".

RESOLUTION NO. 86-230 - RESOLUTION AUTHORIZING THE SALE OF PROPERTY OWNED BY THE CITY OF ASHEVILLE AND THE COUNTY OF BUNCOMBE AND KNOWN AS THE FEE SIMPLE TITLE TO THE LAND LEASED FOR WESTGATE SHOPPING CENTER

3. Consideration was given to a resolution authorizing the sale of property owned by the City of Asheville and the County of Buncombe, and known as the fee simple title to the land leased for Westgate Shopping Center.

Mayor Bissette said Resolution No. 86-227 was adopted December 9, 1986, authorizing the City Clerk to advertise the sale of the property known as

CLAIMS - FLORENCE TROMBLY (STREETS) - DOROTHY LOWE (POLICE) - BARNEY FENNEY (INSPECTIONS) - KINETH STEPHENS (POLICE)

9. The City Manager presented claims received from Florence Trombly, Dorothy Lowe, Barney Fenney, and Kineth Stephens.

Mayor Bissette referred the claims to the Corporation Counsel for investigation and recommendation.

ADJOURNMENT

Upon motion of Councilman Price, seconded by Councilman Boland, the meeting adjourned at 4:50 p.m.

Mayor

City Clerk

Councilman Boland moved to schedule a public hearing relative to a site plan of Biltmore Parkway Centre to be located on Hendersonville Road for January 13, 1987. This motion was seconded by Councilman Price and carried unanimously.

REPORTS REQUESTED BY COUNCILMAN TISDALE - CITY AUTOMOBILES TAKEN HOME BY EMPLOYEES - COLLECTION STATUS OF MOTOR VEHICLES STICKER FEE

6. Councilman Tisdale said he would like a report on the number of City automobiles taken home by City employees and would like a report for the past five years of the collections status of motor vehicles sticker fee.

RESOLUTION NO. 86 - 232 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE ON BEHALF OF THE CITY OF ASHEVILLE AN AMENDMENT TO THE MASTER AGREEMENT BY AND AMONG THE CITY OF ASHEVILLE, THE COUNTY OF BUNCOMBE AND SCHNEIDER NINE, INC.

7. Consideration was given to a resolution authorizing the Mayor to execute on behalf of the City of Asheville an amendment to the master agreement by and among the City of Asheville, the County of Buncombe, and Schneider Nine, Inc.

Mayor Bissette said the City of Asheville, the County of Buncombe, and Schneider Nine, Inc., (whose interest has been assigned to Pack Plaza Associates, Limited Partnership) entered into an agreement known as the master agreement August 15, 1984. He said this resolution would clarify and amend certain provisions of that master agreement. He said the resolution will authorize him to accept, on behalf of the City of Asheville, deeds conveying properties in the Pack Plaza Redevelopment Project to the City of Asheville, being the Old Pack Memorial Library property.

Upon motion of Councilman Price, seconded by Councilman Boland, Resolution No. 86-232 was unanimously adopted.

Complete text of Resolution No. 86-232 will be found in Resolution Book No. 16 at page ~~247~~ 248.

RESOLUTION NO. 86-233 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE ON BEHALF OF THE CITY OF ASHEVILLE A LEASE AGREEMENT BY AND BETWEEN PACK PLAZA ASSOCIATES LIMITED PARTNERSHIP AND THE CITY OF ASHEVILLE

8. Consideration was given to a resolution authorizing the Mayor to execute on behalf of the City of Asheville a lease agreement by and between Pack Plaza Associates Limited Partnership and the City of Asheville.

Mayor Bissette said this resolution would authorize him to execute on behalf of the City of Asheville, a lease agreement by and between the City of Asheville and Pack Plaza Associates Limited Partnership for the use of those buildings known as the "Old Pack Memorial Library" and "Roth Theatre Buildings" for the Pack Plaza Redevelopment Project.

Upon motion of Councilman Michalove, seconded by Councilman Boland, Resolution No. 86-233 was unanimously adopted.

Complete text of Resolution No. 86-233 will be found in Resolution Book No. 16 at page ~~248~~ 249.

Upon motion of Councilman Tisdale, seconded by Councilman Michalove, Resolution No. 87-2 was unanimously adopted.

Complete text of Resolution No. 87-2 will be found in Resolution Book No. 16 at Page 251.

PUBLIC HEARING - REZONING PROPERTY LOCATED AT 218 EAST CHESTNUT STREET (MR. CHRIS PETERSON, PETITIONER)

4. A public hearing was held relative to a request to rezone property located at 218 East Chestnut Street, Ward 2, Sheet 16, Lot 138 (Mr. Chris Peterson, Petitioner).

Mayor Bissette said on November 12, 1986, the Asheville Planning and Zoning Commission considered the petition of Mr. Chris Peterson that Ward 2, Sheet 16, Lot 138 (218 East Chestnut Street) be rezoned from R-4 Residential District to CG Commercial General District. After review and discussion, the Commission voted to recommend that the petition be denied and that the property remain as it is now zoned. On December 10, 1986, the City Clerk received written notice of appeal from the petitioner for this matter to be heard by the City Council. This public hearing was scheduled at the December 16, 1986 meeting of City Council.

Mayor Bissette opened the public hearing at 4:14 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said the Planning and Zoning Commission had reviewed the petition of Mr. Chris Peterson to rezone the property from R-4 Residential District to CG Commercial General District. He said after discussion, the Commission voted to recommend that the petition be denied mainly to limit commercial encroachment into the residential neighborhood. He said the property accesses Chestnut Street and Broad Street. He said Mr. Peterson owns the property and proposes to restore an existing dwelling to a restaurant. He said a restaurant would not be allowed in the R-4 Residential District except for a Bed and Breakfast function which would only allow guests of the Bed and Breakfast to be served.

At the request of members of Council, Mr. Emrick outlined the uses allowed in the R-4 Residential District.

Gene Ellison, Attorney representing Chris Peterson spoke in support of the rezoning, stating that he did not feel the rezoning would infringe or impede on the residential district since the area is adjacent to Fuddrukers Restaurant. He said the property on which Fuddrukers is located was rezoned by Council to allow for their development. He said the existing structure on the property is dilapidated and the developer is willing to put in at least $150,000 to enhance the building and the area. He said 80% of the buildings in the area are of a commercial use.

Chris Peterson, owner of the property, spoke in support of the rezoning stating that he owns 4 or 5 historical buildings at the present time. He said he feels the area is historical and he would not tear the building down but would like to restore the existing structure into a "Victorian style restaurant".

Tuesday - January 6, 1987 - 4:00 p.m.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Mary Lloyd Frank; Councilmen Wilhelmina Bratton, Walter R. Boland; Kenneth M. Michalove, Norma T. Price, and George M. Tisdale; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: None

INVOCATION

The invocation was given by Councilman Wilhelmina Bratton.

APPROVAL OF THE MINUTES - DECEMBER 23, 1986 MEETING

1. Consideration was given to the approval of the minutes of the December 23, 1986 meeting.

Mayor Bissette announced the approval of the minutes as submitted.

RESOLUTION NO. 87-1 - RESOLUTION IN MEMORIAM OF JAMES B. WILSON

2. Consideration was given to a resolution in memoriam of James B. Wilson.

Mayor Bissette read the resolution stating that the City Council of the City of Asheville wishes to express its sorrow over the recent passing of James B. Wilson, Executive Editor of the Asheville Citizen-Times. He said by adoption of this resolution, the City of Asheville gratefully recognizes Jim Wilson's many contributions to the welfare of this community and his state, and extends to his family sincere sympathy upon his passing.

Upon motion of Councilman Boland, seconded by Councilman Price, Resolution No. 87-1 was unanimously adopted.

Complete text of Resolution No. 87-1 will be found in Resolution Book No. 16 at page 250.

RESOLUTION NO. 87-2 - RESOLUTION OF APPRECIATION TO MRS. HELEN B. ZAGEIR

3. Consideration was given to a resolution of appreciation to Mrs. Helen B. Zageir.

Mayor Bissette read the resolution stating that Mrs. Zageir had donated to the City a parcel of land on Patton Avenue at Lexington Avenue, the site of the former Asheville Landmark, The Man Store, and Mrs. Zageir had previously donated to the City an adjoining strip of land which allowed the City to widen Lexington Avenue and thus, add to the convenience of its citizens and the beauty of the downtown area. This resolution expresses the City of Asheville's sincere appreciation to Helen B. Zageir and her family for their caring generosity to their community and its people.

Mayor Bissette said at the request of City Council on August 19, 1986, the Asheville Planning and Zoning Commission at a meeting held October 8, 1986, considered rezoning Ward 8, Sheet 31, Lot 16, from R-2 Residential District to CH Commercial Highway District. After review and discussion, the Commission voted to recommend to City Council that Ward 8, Sheet 31, Lot 16, be rezoned from R-2 Residential District to R-4 Residential District with applicable buffering. This ordinance passed first reading at the December 23, 1986 meeting.

Mayor Bissette said the ordinance was previously read on its first reading and would not be reread in its entirety. He said any individual requesting a copy of the ordinance will be furnished one at no cost.

On a roll call vote of 6-1, Ordinance No. 1621 passed on second reading with Councilman Michalove voting "no".

Mayor Bissette indicated that no correspondence has been received from the Craig's relative to the rezoning.

RESOLUTION NO. 87-3 - RESOLUTION OF CONCURRENCE WITH A BUSINESS RELOCATION POLICY ADDENDUM

6. Consideration was given to a Resolution of Concurrence with a business relocation policy addendum.

Mayor Bissette said this Resolution of Concurrence will provide for the least costly method of relocation for businesses without causing undue hardship when the Housing Authority and the displacee agree on the method of substitution.

Mayor Bissette said members of Council were previously furnished copies of the resolution and it would not be read in its entirety. He said any individual requesting a copy of the resolution will be furnished one at no cost.

Ralph Bishop asked if the City of Asheville helped to relocate the gambling place at 7½ Biltmore Avenue for the Downtown Project.

Upon motion of Councilman Tisdale, seconded by Councilman Price, Resolution No. 87-3 was unanimously adopted.

Complete text of Resolution No. 87-3 will be found in Resolution Book No. 16 at Page 252.

RESOLUTION NO. 87-4 - RESOLUTION AUTHORIZING THE SIGNING OF A MEMORANDUM OF UNDERSTANDING WITH THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT TO FURTHER FAIR HOUSING WITHIN THE CITY OF ASHEVILLE

7. Consideration was given to a resolution authorizing the signing of a Memorandum of Understanding with the U.S. Department of Housing and Urban Development to further fair housing within the City of Asheville.

Mayor Bissette said on October 15, 1985, the City Council passed Ordinance No. 1539 which created the Asheville Fair Housing Commission. The Commission has the jurisdiction to enforce the State Fair Housing Act, Chapter 41A of the North Carolina General Statutes, within the City of Asheville, as authorized in Chapter 776 of the 1985 North Carolina Session Laws. The U. S.

Ralph Bishop spoke in support of the rezoning.

W. A. McElduff, spoke in opposition of the rezoning, stating that he lives next door to the property proposed to be rezoned. He said he was also opposed to the area being designated a historical area from the beginning.

Tim Warner of 87 North Liberty Street spoke in opposition to the rezoning because of the other commercial establishments allowable in CG Commercial General zone that could be located on the property.

Councilman Michalove questioned whether or not the property could be considered in the "historical overlay" zone.

Verl Emrick explained that in order to use the "historical overlay" zone, the property would have to be individually designated as a historical building. He said the Historic Resources Commission would have to determine the qualifications of the building. He said, in his opinion, the only option for the use of the building as a restaurant would be the "historical overlay" zone without rezoning the property. He indicated that under State law, Council could not contract rezoning with the property owner or enter into any type of agreement for the rezoning.

Councilman Bratton said she could relate to the character of the neighborhood, but believed in economic development for the City of Asheville. She said it would be difficult for her to oppose a small business man.

Chris Peterson indicated that the Council could also modify the definition of Bed and Breakfast to allow guests other than those patronizing the Bed and Breakfast facility to use the restaurant facilities.

June Grant, Realtor, said she did not feel Council should go about rezoning property just for individuals. She said it was difficult to sell property under one zone with the possibility that members of Council would change the zoning at any time.

Vice-Mayor Frank said she would be opposed to the rezoning of the property for the Commercial General zone but would be in favor of the Historic Resources Commission investigating the possibility of a "historical overlay" zone.

After discussion, Councilman Michalove moved to continue the public hearing for two weeks without further advertisement, and to request that the Planning Staff look into the possibility of placing the property in a "historical overlay" zone that would allow conditional use without a zoning change, and to look for other alternatives for the use of the property, and to report this information back to the Council at the January 20 meeting. This motion was seconded by Councilman Bratton and carried on a voice vote of 4-3 with Councilman Price, Vice-Mayor Frank, and Councilman Boland voting "no".

ORDINANCE NO. 1621 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE", AS AMENDED - PETITION FOR MR. R. S. CRAIG, PROPERTY LOCATED ON US 70-EAST AT CAMPGROUND ROAD

5. Consideration was given to the second reading of Ordinance No. 1621, an ordinance amending Ordinance No. 322, known as "an ordinance providing for the zoning of the City of Asheville", as amended - petition for Mr. R. S. Craig, property located on US 70-East at Campground Road.

He said the petition is being presented pursuant to the provision of Section 30-11-1 (c) of the Zoning Ordinance.

He said, at the direction of Mayor Bissette, he met with representatives of the Oakley neighborhood regarding the study to consider rezoning property in the area from R-2 and R-3 Residential District to R-1 Residential District. He said the petition meets all the requirements of Section 30-11-1 (c) in that 51% of the property owners had signed the petition. He said the zoning study would be conducted to see if the character of the neighborhood has changed to allow for a R-1 Residential District zone.

By the use of a map, Mr. Emrick reviewed the location of the property requested to be studied.

Leonard Jones, property owner in the Oakley area, said he represented most of the property owners in Oakley, and had generated the petition. He also requested that during the time the City of Asheville is conducting the zoning study, that a moratorium on multi-family construction be instituted for that area.

John Stroup, of Bee Ridge Road, said he owns 14 acres in this particular area and is opposed to any rezoning. He said the property is not compatible for a R-1 Residential District designation.

Sandra Hyldburg, Attorney representing Burl Lance, a Real Estate Developer, said Mr. Lance owns property in the area and has been holding the property for investment purposes. She said she felt the best use of the property is for apartments, and her client would object to any further restrictions on this property.

Bob Pugh, Carolyn Benfield, and Willard Hill, property owners in the Oakley area, spoke in support of the rezoning to the R-1 Residential District.

Gary Pearson, with the Fairways Realty Company of Etowah presented a statement to members of Council opposing any rezoning in the Oakley area. He said he is presently working with a client and the Planning and Zoning Commission to develop 48 units of condominiums in the area, and all governmental entities have indicated approval for the project. He said he would object to any petition to rezone the area.

In response to Mr. Stroup's request to place the property under a moratorium, Mayor Bissette said a moratorium could not be placed on the property unless a threat to public health and safety is involved.

Councilman Price said, in her opinion, this area needs to be studied along with the proposed overall comprehensive zoning plan.

Barbara Tauber, of the Property Shop, spoke in opposition to the petition.

After discussion, Councilman Boland moved to refer the petition to the Planning and Zoning Commission for study and recommendation with the suggestion that the study be concurrent with the proposed overall comprehensive zoning plan. This motion was seconded by Vice-Mayor Frank and carried unanimously.

Department of Housing and Urban Development (HUD) has requested that the City execute a Memorandum of Understanding prior to officially being recognized as Substantially Equivalent to the Federal Fair Housing Act, Title VIII of the Civil Rights Act of 1968. The intent of the MOU is to eliminate duplicative enforcement activity and to maximize fair housing efforts through sustained interagency communication. The HUD grant will increase revenue by approximately $23,000 per year for first two years of project implementation.

Mayor Bissette said members of Council were previously furnished copies of the resolution and it would not be read in its entirety. He said any individual requesting a copy of the resolution would be furnished one at no cost.

Upon motion of Councilman Boland, seconded by Councilman Price, Resolution No. 87-4 was unanimously adopted.

Complete text of Resolution No. 87-4 will be found in Resolution Book No. 16 at Page 253.

SCHEDULING PUBLIC HEARING - SITE PLAN OF WEST TERRACE CENTER - PATTON AVENUE FOR JANUARY 27, 1987

8. Consideration was given to a motion to schedule a public hearing relative to a site plan of West Terrace Center located on Patton Avenue for January 27, 1987.

Mayor Bissette said the Asheville Planning and Zoning Commission at a meeting held December 10, 1986, reviewed a site plan of West Terrace Center located on Patton Avenue. The site plan was prepared by Danie Johnson, Architect, for R. L. Coleman and Company, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to approve the project subject to: 1) signage to be 25 square feet per retail space (3); 2) 15' clearance to sanitary and storm sewer; 3) 1 to 1-1/2 slope for sanitary compliance with Erosion Control Ordinance.

Councilman Tisdale moved to schedule a public hearing relative to the site plan of the West Terrace Center located on Patton Avenue for January 27, 1987. This motion was seconded by Vice-Mayor Frank and carried unanimously.

PRESENTATION OF PETITION - PROPERTY OWNERS IN THE OAKLEY AREA REQUESTING COUNCIL TO INITIATE A ZONING STUDY PURSUANT TO THE PROVISION OF SECTION 30-11-1 (C)

9. Presentation of a petition received from property owners in the Oakley area requesting Council to initiate a zoning study pursuant to the provision of Section 30-11-1 (c).

Verl Emrick, Planning Director, said a petition has been received from property owners in the Oakley area requesting Council to consider rezoning property in that area from R-2 and R-3 to R-1.

Tuesday - January 13, 1987 - 4:00 p.m.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Mary Lloyd Frank, Councilmen Wilhelmina Bratton, Walter R. Boland; Kenneth M. Michalove, Norma T. Price, and George M. Tisdale; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: None

INVOCATION

The invocation was given by Mayor Louis Bissette.

APPROVAL OF THE MINUTES - JANUARY 6, 1987 MEETING

1. Consideration was given to the approval of the minutes of the January 6, 1987, meeting.

Mayor Bissette announced the approval of the minutes as submitted.

PUBLIC HEARING - SITE PLAN OF BILTMORE PARKWAY CENTRE TO BE LOCATED ON HENDERSONVILLE ROAD

2. A public hearing was held relative to a site plan of the Biltmore Parkway Centre to be located on Hendersonville Road.

Mayor Bissette said the Asheville Planning and Zoning Commission at a meeting held December 10, 1986, reviewed a site plan of Biltmore Parkway Centre to be located on Hendersonville Road. The site plan was prepared by Danie Johnson, Architect, for Biltmore Centre Limited Partnership, Developer, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to approve the project subject to: 1) provision of a 20' buffer on the north boundary line; 2) approval of signage package; 3) compliance with Tree Ordinance; 4) approval of curb cut by N.C. Department of Transportation; and 5) reapply for grading permit and compliance with Erosion Control Ordinance.

Mayor Bissette opened the public hearing at 4:10 p.m.

The City Manager presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said the Asheville Planning and Zoning Commission did review and recommend that the site plan of the Biltmore Parkway Centre be approved subject to several provisions. He said the site plan shows the provision for a 20' buffer on the north boundary line as recommended by the Planning and Zoning Commission. He said there would be one free-standing sign plus signage on the facades. He said curb cuts have been applied for through the North Carolina Department of Transportation. He said the developer has requested that the North Carolina

COUNCILMEMBER REQUESTS

10. Upon inquiry of Councilman Tisdale, the City Manager indicated that the Staff is currently looking into the storm drain problem at Kimberly and Edgewood Road.

Upon inquiry of Vice-Mayor Frank, Verl Emrick, Director of Planning, said that a draft of the overall comprehensive zoning plan will be ready in late January.

Councilman Bratton requested that the City Manager look into problems on Lexington Avenue.

Mayor Bissette requested that the City Manager investigate the problems with prostitution on Coxe Avenue behind the new US Post Office.

Councilman Tisdale also requested that the City Manager look into the parking meter situation on Market Street and Lexington Avenue.

SCHEDULING PUBLIC HEARING - SITE PLAN OF BEAUCATCHER CINEMAS LOCATED ON US 70 AND HAW CREEK LANE SHOWING THE ADDITION OF A HARDEE'S RESTAURANT

11. Vice-Mayor Frank moved to schedule a public hearing relative to the site plan of Beaucatcher Cinemas located on US 70 and Haw Creek Lane showing the addition of a Hardee's Restaurant for January 20, 1987. This motion was seconded by Councilman Tisdale and carried unanimously.

CLAIMS - LARRY BRENDLE (WATER) - ROBYN HORNE (DOWNTOWN DEVELOPMENT) - CLAY CLINE (SEWER) - BEVERLY PAHEL (POLICE)

12. The City Manager presented claims received from Larry Bendle, Robyn Horne, Clay Cline, and Beverly Pahel.

Mayor Bissette referred the claims to the Corporation Counsel for investigation and recommendation.

RALPH BISHOP - COMMENTS RELATIVE TO LOTTERY SALES IN THE CITY OF ASHEVILLE

13. Ralph Bishop again spoke to members of Council relative to the lottery sales in the City of Asheville.

ADJOURNMENT

Upon motion of Councilman Boland, seconded by Councilman Price, the meeting adjourned at 6:05 p.m.

MAYOR

CITY CLERK

87th

RESOLUTION NO. 87-5 - RESOLUTION PROHIBITING SMOKING IN THE ASHEVILLE CITY COUNCIL CHAMBERS DURING MEETINGS OF THE CITY COUNCIL

4. Consideration was given to a resolution prohibiting smoking in the City Council Chambers during meetings of the City Council.

Mayor Bissette said the Surgeon General of the United States has determined that smoking causes lung cancer, heart disease, emphysema, and may complicate pregnancy and that quitting smoking greatly reduces risks to health. Recent studies indicate that smoking also creates health hazards for non-smokers who are exposed to the smoke. The Asheville City Council desires to eliminate smoking in the Council Chambers during City Council meetings in an effort to reduce exposure to health hazards for persons attending Council meetings.

Mayor Bissette said this resolution was previously presented to members of Council and would not be read in its entirety. He said any individual requesting a copy of the resolution would be furnished one at no cost.

Councilman Tisdale said since he is the only Councilmember who does smoke and owns an tobacco allotment, he felt it was necessary that he comment on this particular resolution. He said he thought the resolution banning smoking in the formal meeting room is totally unnecessary since anti-smoking laws should remain with the officials in Washington and in Congress. He said tobacco is legal and the tobacco industry has done a fine job working with the federal government, and the tobacco industry is very important to the State. He said as a matter of courtesy to non-smoking colleagues, he has never smoked in a Council Chamber meeting and has agreed not to smoke in the pre-Council meetings.

Vice-Mayor Frank said she had received numerous calls relative to the adoption of this resolution commending the Council for taking such action. She said they also requested that Council adopt an ordinance prohibiting smoking in all public places. She said the Buncombe County Commissioners passed a resolution in 1984 prohibiting smoking in their Commissioners' Chambers.

Councilman Price said she felt members of Council who were supporting the measure are also aware of the economic and employment importance of tobacco and that the smoking ban should be seen as a courtesy to non-smokers and those with respiratory problems who cannot attend public meetings if smoke is in the room.

Bob Shultz, a Buncombe County resident, spoke in favor of the resolution.

Weldon Denny, with the Tobacco Section of the North Carolina Department of Agriculture, spoke in opposition to the resolution quoting statistics on the economic and employment impact of tobacco in the State, and in Buncombe County, and asked the Council to decide on a resolution as a management decision rather than through the adoption of a resolution.

Mac McGough, with the Western North Carolina Development Association, spoke in opposition to the resolution.

Department of Transportation conduct a traffic study to determine if a traffic signal is needed in that area. He said the proposed development shows a setback of the buildings further than the right-of-way needed by the North Carolina Department of Transportation to widen Hendersonville Road. He said the project would consist of approximately 56,200 sq. ft. of lease-retail space. He said the project is in compliance with all City codes and ordinances; however, final approval should be contingent on approval of the curb cut by the North Carolina Department of Transportation.

Danie Johnson, Architect for the project, said the project would include a Harris Teeter Food Store and would be a high quality center beyond the typical architecture in our area. He said the proposed project has been tied in with existing and proposed roadway improvements by the North Carolina Department of Transportation. He said the Biltmore Forest Company has dedicated right-of-way to the North Carolina Department of Transportation for the widening of Hendersonville Road.

Mayor Bissette closed the public hearing at 4:16 p.m.

Vice-Mayor Frank moved for the approval of the site plan of the Biltmore Parkway Centre to be located on Hendersonville Road subject to the conditions outlined by the Planning and Zoning Commission. This motion was seconded by Councilman Boland and carried unanimously.

ORDINANCE NO. 1621 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED, PETITION OF MR. R. S. CRAIG, PROPERTY LOCATED ON U.S. 70-E AT CAMPGROUND ROAD

3. Consideration was given to the third reading of Ordinance No. 1621, an ordinance amending Ordinance No. 322, known as "an ordinance providing for the zoning of the City of Asheville," as amended, petition of Mr. R. S. Craig, property located on U.S. 70-E at Campground Road.

Mayor Bissette said at the request of City Council on August 19, 1986, the Asheville Planning and Zoning Commission at a meeting held October 8, 1986, considered rezoning Ward 8, Sheet 31, Lot 16, from R-2 Residential District to CH Commercial Highway District. After review and discussion, the Commission voted to recommend to City Council that Ward 8, Sheet 31, Lot 16, be rezoned from R-2 Residential District to R-4 Residential District with applicable buffering. This ordinance passed first reading at the December 23, 1986 meeting.

Mayor Bissette said no correspondence had been received from the petitioner relative to this rezoning.

Councilman Tisdale said he still felt the rezoning of this property to an R-4 Residential designation would make the property more marketable.

On a roll call vote of 6-1, Ordinance No. 1621 passed on third and final reading, with Councilman Michalove voting "no" rezoning the property to R-4 Residential District.

Complete text of Ordinance No. 1621 will be found in Ordinance Book No. 11 at page 107.

Several months ago, I arranged two (2) additional new leases with Credithrift and Financial Services. Having no idea that I would have to arrange any Asheville sign approvals on the four (4) small stores, approximately 1,250 square feet each, I did approve these two (2) tenants to fabricate expensive signs, Credithrift, 4' x 15', and Financial Services, 3' x 12'.

These interior stores have no road frontage exposure and I would be obliged to reimburse them for the expense I caused them if they were not allowed to hang these signs on their respective store facades.

Therefore, I respectfully request, if you could permit in this instance, the use of the hereinmentioned already fabricated signs.

Very truly yours,

GREENE ASSOCIATES

Edward I. Greene

EIG:gm

cc: Verl Emrick
Danie Johnson

Danie Johnson, Architect for the project, said the signs would not be visible from the interstate.

Upon inquiry of Council, Mr. Emrick said he felt the request is appropriate.

Councilman Michalove moved to amend the restrictions relative to signage on the proposed K-Mart Shops of Asheville located on South Tunnel Road as requested by Greene Associates. This motion was seconded by Councilman Boland and carried unanimously.

APPROVAL OF CONSENT AGENDA

6. Mayor Bissette said the following items are of a routine nature and they have been previously reviewed by the members of the City Council. Therefore, by unanimous vote to approve these items, the City Council may, pursuant to the procedures established in Ordinance No. 1008, adopt all of the items with one motion without the full reading and/or separate motion adopting each individual item. Upon the request of a citizen, a member of the City Council, and/or a member of the City staff, any single item scheduled for approval on the consent agenda may be considered separately.

Upon motion of Vice-Mayor Frank, seconded by Councilman Bratton, Resolution No. 87-5 passed on a voice vote of 6-1, with Councilman Tisdale voting "no."

Complete text of Resolution No. 87-5 will be found in Resolution Book No. 16 at page 254.

APPROVAL OF AMENDING RESTRICTIONS RELATIVE TO SIGNAGE ON FACADES AT PROPOSED K-MART SHOPS OF ASHEVILLE - SOUTH TUNNEL ROAD

5. Consideration was given to a motion amending restrictions relative to signage on facades at the proposed K-Mart Shops of Asheville located on South Tunnel Road.

Mayor Bissette said on December 16, 1986, Council approved the site plan of the proposed K-Mart Shops of Asheville to be located on South Tunnel Road subject to compliance with the Erosion Control Ordinance and signage on the facades to be limited to 25 square feet. A request has been received from Greene Associates to amend the restrictions on signage of the facades.

Mayor Bissette requested that he be excused from participation and vote on this particular issue since his firm represents the developer.

Councilman Price moved to excuse Mayor Bissette from participation and vote on the proposed K-Mart Shops of Asheville located on South Tunnel Road. This motion was seconded by Councilman Michalove and carried unanimously.

Verl Emrick, read the following letter from Mr. Edward I. Greene requesting the amended restrictions on signage.

December 31, 1986

Mayor Louis Bissette
Asheville City Hall
Asheville, NC 28801

Re: Four (4) Interior Facade Signs
K-Mart Plaza, 4 South Tunnel Road
Asheville, NC

Dear Mayor Bissette:

In discussions with the Planning Board, when we submitted our plans to the Group Development for the 5,000 square foot building at the above-captioned Shopping Center, my architect, Danie Johnson, committed in good faith to signage restrictions of 25 square feet per tenant. Mr. Johnson was unaware that when I made lease arrangements a year ago with existing tenants to move their former occupied stores to the new store building as an accommodation to me, they planned to use the same signs that were affixed to their former store fronts; specifically, the Barber sign is 3' x 10', the Read Uniform 4' x 10'.

1987, Asheville Cablevision would be rearranging their programming schedule to get "customer equipment friendly." He said subscribers with cable-ready TV's or cable-ready VCR's would now be capable of using their own equipment rather than cablevision equipment. He said the lowest basic rate of service will be $13.00. He said during 1987 another $1 million would be spent in growth by Asheville Cablevision adding an additional 22 miles of service; providing service to all housing projects and this should provide for the additional wiring of the entire City except for the newly annexed areas. He said Asheville Cablevision is in the process of negotiating with the company now servicing the newly annexed areas.

Councilman Tisdale said he had received many questions relative to Asheville Cablevision since this new announcement had been made. He said he would like to reiterate the fact that City Council can no longer dictate to Asheville Cablevision relative to rates and/or program structure. He said Mr. Haight's presentation was merely a courtesy to members of Council.

Mr. Haight indicated that even though members of Council cannot legally regulate rates of Asheville Cablevision due to federal deregulation, Asheville Cablevision is willing to listen and to continue the working relationship with Asheville City Council and its subscribers.

Mayor Bissette commended Asheville Cablevision for an excellent job during 1986 of improving the service of cablevision.

Upon inquiry of Vice-Mayor Frank, Mr. Haight said Asheville Cablevision had removed Channel 9 from its programming, mainly because the channel is 85% duplicated on PBS out of Tennessee, and because of continued technical problems.

Mr. Haight answered general questions from Mr. Morris Fox, of 5 Valle Vista Road, relative to the use of a VCR and cablevision service.

Ralph Bishop spoke in opposition to the Asheville Cablevision Company stating that he felt they had a monopoly in the City of Asheville.

RESOLUTION 87-6 - RESOLUTION DIRECTING THE CITY CLERK TO ADVERTISE AN OFFER FOR THE PURCHASE OF CITY-OWNED PROPERTY LOCATED ON FANNING BRIDGE ROAD AND AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT FOR THE SALE OF THE PROPERTY

8. Consideration was given to a resolution directing the City Clerk to advertise an offer for the purchase of City-owned property located on Fanning Bridge Road and authorizing the Mayor to execute an agreement for the sale of the property.

Mayor Bissette read the resolution stating that the City has received an offer for the purchase of a tract of land containing 27 acres located east of the intersection of Fanning Bridge Road and Asheville Airport Road. He said the offer is in the amount of $325,000 and a 5% bid deposit has been received by the City Clerk. He said that Council has determined that it does not need this property for City purposes and desires to sell the property for the purpose of construction of approximately 290,000 sq. ft. distribution facility.

A. Consideration of a motion to schedule a public hearing relative to final approval of the subdivision of Stratford Oaks for January 27, 1987.

HIGHLIGHTS: The Asheville Planning and Zoning Commission at a meeting held September 10, 1986, approved the preliminary plat of Stratford Oaks subject to the Board of Adjustment granting a variance on lot width on the cul-de-sac. The project consists of the subdivision of 10 lots off Mann Drive in Haw Creek. The plat was prepared by Jensen Engineering for Bass and Hayes Builders, Inc., Developer.

FISCAL IMPACT: None

B. Consideration of a motion to schedule a public hearing relative to a site plan of M. B. Haynes Corporation located on Deaverview Road for January 27, 1987.

HIGHLIGHTS: The Asheville Planning and Zoning Commission at a meeting held December 10, 1986, reviewed a site plan of M. B. Haynes Corporation located on Deaverview Road showing the addition of an Alden Metal Building for lease. The site plan was prepared and submitted by M. B. Haynes, Developer. After review and discussion, the Commission voted to approve the project subject to: 1) provision of a 20' buffer on the east property line next to park; 2) compliance with Tree Ordinance; and 3) compliance with Erosion Control Ordinance.

FISCAL IMPACT: None.

Upon motion of Councilman Price, seconded by Councilman Tisdale, the Consent Agenda was unanimously approved.

REPORT FROM ASHEVILLE CABLEVISION

7. Joe Haight, General Manager of Asheville Cablevision, reviewed the progress that Asheville Cablevision made during 1986. He thanked members for appointing the Asheville Cablevision Commission and said he felt the Commission was very effective. He said Asheville Cablevision spent $1.3 million in growth in 1986 and added 21 miles of service. He said the system now passes through over 33,000 homes and they are now servicing 65% of all housing units that the system passes. He said this is approximately 15% above the nationwide average of cablevision systems passing homes. He said during 1986, Asheville Cablevision has changed programming and rates. He said they have also expanded their hours of operation, and service calls are down by 65%. He said they are now capable of answering a service call within 12 hours and installing a new service within 24 hours. He said on March 1,

Tuesday - January 20, 1987 - 4:00 p.m.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Mary Lloyd Frank; Councilmen Wilhelmina Bratton, Walter R. Boland; Kenneth M. Michalove, Norma T. Price, and George M. Tisdale; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: None

INVOCATION

The invocation was given by Councilman Walter Boland.

APPROVAL OF THE MINUTES - JANUARY 13, 1987 MEETING

1. Consideration was given to the approval of the minutes of the January 13, 1987, meeting.

Mayor Bissette announced the approval of the minutes as submitted.

PUBLIC HEARING CONTINUATION - REZONING PROPERTY LOCATED AT 218 EAST CHESTNUT STREET (MR. CHRIS PETERSON, PETITIONER)

2. A public hearing was continued relative to a request to rezone property located at 218 East Chestnut Street, Ward 2, Sheet 16, Lot 138 (Mr. Chris Peterson, petitioner).

Mayor Bissette said on November 12, 1986, the Asheville Planning and Zoning Commission considered the petition of Mr. Chris Peterson that Ward 2, Sheet 16, Lot 138 (218 East Chestnut Street) be rezoned from R-4 Residential District to CG Commercial General District. After review and discussion, the Commission voted to recommend that the petition be denied and that the property remain as it is now zoned. On December 10, 1986, the City Clerk received written notice of appeal from the petitioner for this matter to be heard by the City Council. A public hearing was held on January 6, 1987, and was continued until January 20, 1987, without further advertisement.

Verl Emrick, Director of Planning, said on January 6, 1987, City Council requested that the Planning staff review this property to determine whether it could be classified under the "Historical Overlay Zone." He said the Historic Resources Commission investigated the possibility of 218 East Chestnut Street being designated as historical property. He said in a memorandum from Carolyn A. Humphries, Executive Director of the Historic Resources Commission, it was noted that the Peterson property at 218 East Chestnut Street is a contributing structure in the local historic district. He said the house was built about 1900 as a residence, and although it was later divided into apartments, it has maintained residential use throughout its structural life. He said the Historic Resources Commission questioned whether the "Conservation Overlay for Historic Properties" would be appropriate for this project since the ordinance states "Conditional Uses

Upon motion of Councilman Bratton, seconded by Councilman Michalove, Resolution No. 87-6 was unanimously adopted.

Complete text of Resolution No. 87-6 will be found in Resolution Book No. 16 at page 255 and 256.

CLAIMS - ROBERT HYATT (WATER)

The City Manager presented a claim received from Robert Hyatt.

Mayor Bissette referred the claim to the Corporation Counsel.

LAWSUITS - GROVER C. MATTHEWS, TROY E. MCHONE, AND ROBERT E. SIMMONS VS. BOARD OF TRUSTEES OF THE ASHEVILLE POLICEMEN'S PENSION AND DISABILITY FUND - ASHEVILLE CITY BOARD OF EDUCATION (CONDEMNATION OF PROPERTY) - ASHEVILLE CITY BOARD OF EDUCATION (CONDEMNATION OF PROPERTY) - LEANNE HIPPS (PERSONAL INJURY)

The City Manager said the City Manager was served with the following lawsuits in which the City of Asheville is a defendant; Grover C. Matthews, Troy E. McHone, and Robert E. Simmons vs. Board of Trustees of the Asheville Policemen's Pension and Disability Fund relative to a temporary restraining order preventing transfer of assets of Police Pension Plan into LGERS; Asheville City Board of Education relative to property owned by Anthony L. Bennette, et. al. relative to enlargement and improvement of William Randolph Elementary School site; Asheville City Board of Education relative to condemnation of property owned by Arthur D. Young, et. al., relative to the enlargement and improvement of William Randolph Elementary School site; Asheville City Board of Education relative to the condemnation of property owned by the trustees of Church of God in Christ, et. al., relative to enlarging and improving William Randolph Elementary School site; Leanne Hipps by and through her guardian ad litem, Judy Lovelace, individually, relative to a personal injury when retaining wall allegedly fell on the child.

Mayor Bissette referred the law suits to the Corporation Counsel for investigation and recommendation.

RALPH BISHOP - LOTTERY SALES IN THE CITY OF ASHEVILLE

Ralph Bishop again spoke to members of Council relative to the responsibility of the City Manager to enforce lottery sales in the City.

ADJOURNMENT

Upon motion of Councilman Boland, seconded by Councilman Price, the meeting adjourned at 5:10 p.m.

Mayor

City Clerk

Councilman Price moved to accept the recommendation of the Planning and Zoning Commission that the petition be denied and that the property remain as it is now zoned, that being R-4 Residential District. This motion was seconded by Councilman Boland and carried on a voice vote of 6-1, with Councilman Bratton voting "No."

Upon inquiry of Council, Corporation Counsel Slawter said, in his opinion, it is always best to accept or deny a particular issue to clarify any technicalities that may be brought about in the future. He said, in his opinion, if Council moves to deny a request, the petitioner cannot request a rezoning for at least one year.

PUBLIC HEARING - SITE PLAN OF BEAUCATCHER CINEMAS, LOCATED AT U.S. 70 AND HAW CREEK LANE - ADDITION OF HARDEE'S RESTAURANT

3. A public hearing was held relative to a site plan of Beaucatcher Cinemas, located at U.S. 70 and Haw Creek Lane showing the addition of a Hardee's Restaurant.

Mayor Bissette said the Asheville Planning and Zoning Commission, at a meeting held December 10, 1986, reviewed a site plan of Beaucatcher Cinemas, located at U.S. 70 and Haw Creek Lane showing the addition of a Hardee's Restaurant. The site plan was prepared by Franchise Enterprises, Inc., Rocky Mount, N.C., and submitted by Litchfield Company of South Carolina, Developer. After review and discussion, the Commission voted to approve the project subject to: 1) provision of a 10' buffer on the west property line along Haw Creek Lane; 2) City Council granting a variance of 12 parking spaces or 3% of total parking requirements; 3) submission of signage package; and 4) compliance with Erosion Control Ordinance.

Mayor Bissette opened the public hearing at 4:46 p.m.

The City Clerk presented the notice to the public, setting the time and date of the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said the Asheville Planning and Zoning Commission had recommended approval of the project subject to the provision of a 10' buffer on the west property line along Haw Creek Lane which is shown on the site plan. He said the approval of the site plan should include the granting of a variance of 12 parking spaces or 3% of the total parking requirements. He said Hardee's would be providing 43 parking spaces and handicapped parking would be complied with. He said the signage is less than required, being that 500 square feet is allowable, and Hardee's would be using 312 square feet. He said the sign would be 40' in height.

Vice Mayor Frank said she would support the sign being 30' in height rather than 40'.

Upon inquiry of Councilman Boland, Mr. Emrick said, in his opinion, there would be no increase in traffic congestion because of this development.

Gary Rowe, attorney for the developer, said cross easements with the Litchfield Company, operating the theaters, would be executed for parking requirements. He said he did not feel that the area would increase traffic

Permitted. The uses permitted herein shall be limited to uses that are not inconsistent with the design and/or uses for which the structure on the property has been designated or used during the life of the structure." He said the Historic Resources Commission has no record that the house at 218 East Chestnut Street was ever used for a restaurant, although it may have been used as a boarding or rooming house or apartments. He said he would agree with the Historic Resources staff that the property would not comply for the "Historic Conservation Overlay Zone." He said the owner could go forward with the "bed and breakfast" proposal.

Eugene Ellison, attorney for Chris Peterson, spoke in support of the rezoning of the property to the CG Commercial General District as requested. He said the area around 218 East Chestnut Street is basically for commercial use. He said there are only eight residences left in the area, and he did not feel the property being used as a "Victorian style restaurant" would be impeding on the residential area.

Chris Peterson, owner of the property, spoke in support of the rezoning. He said he thought Council had two issues to think about in considering this request. He said 90% of the area is used commercially, and the few houses that are left in the area are for sale. He said Gateway Realty and Erwin Ball, property owners in the area, support his request for the rezoning. He said he felt that Council needs to carefully consider such requests since the old structures should not be demolished, but restored. He said, in his opinion, the "Victorian style restaurant" would enhance the neighborhood. Secondly, Council should support the small businessman in the City of Asheville.

Robert Dungan, of 89 North Liberty Street, spoke in opposition to the rezoning, stating that after the property is zoned Commercial General, any allowable use in that zone could be used. He said the owner of 218 East Chestnut Street is primarily a nightclub owner, and nothing would stop the owner from eventually placing a nightclub in the area.

Marian Gebhardt, of 81 North Liberty Street, said, as a realtor/resident and a member of the Claxton Homeowners Association, she strongly opposed the request for the rezoning.

It was noted that the owner of the property could, on his own, pursue the historical designation of the property and, if approved, could be considered under the "Conservation Overlay" for Historic Properties Zone.

After discussion, Mayor Bissette closed the public hearing at 4:37 p.m.

Mayor Bissette said the ordinance was previously presented to members of Council, and it would not be read in its entirety. He said any individual requesting a copy of the ordinance would be furnished one at no cost.

Councilman Bratton moved to adopt the ordinance, rezoning the property located at 218 East Chestnut Street to Commercial General District. She said she felt the "Victorian style restaurant" would be in the best interest of the City of Asheville. Councilman Bratton's motion received no second.

The City Manager said that Price Waterhouse has done an excellent job and recommended that the contract be extended for a one year period and that Price Waterhouse be evaluated next year.

Upon motion of Councilman Tisdale, seconded by Vice Mayor Frank, Resolution No. 87-7 was unanimously adopted.

Complete text of Resolution No. 87-7 will be found in Resolution Book No. 16 at page 257.

RESOLUTION NO. 87-8 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE ON BEHALF OF THE CITY OF ASHEVILLE AN AGREEMENT AND ANY AMENDMENTS WITH MCGILL ASSOCIATES, P.A., FOR ENGINEERING SERVICES FOR STREET AND SIDEWALK IMPROVEMENT AND REHABILITATION PROJECTS TO BE LET IN CALENDAR YEAR 1987

6. Consideration was given to a resolution authorizing the Mayor to execute on behalf of the City of Asheville an agreement and any amendments with McGill Associates, P.A., for engineering services for street and sidewalk improvement and rehabilitation projects to be let in calendar year 1987.

Mayor Bissette said the citizens of the City of Asheville approved a bond issue for the purpose of improvements and rehabilitation to streets and sidewalks within the City. The services of a consulting engineer are required to prioritize, coordinate, evaluate, design, specify, administer, inspect and provide public information and relations in regard to these projects and their contracts. This resolution will authorize the Mayor to execute on behalf of the City of Asheville an agreement and any amendments with McGill Associates to provide consulting services to the City in regard to the Street and Sidewalk Improvement Projects let for contract during Calendar Year 1987.

Mayor Bissette said the first phase of the projects would be let in April, 1987, and the second phase would be let in September, 1987.

Upon motion of Councilman Boland, seconded by Councilman Michalove, Resolution No. 87-8 was unanimously adopted.

Complete text of Resolution No. 87-8 will be found in Resolution Book No. 16 at page 258.

SCHEDULING PUBLIC HEARING - ISSUANCE OF CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO BEAVER LAKE CAB COMPANY FOR AN ADDITIONAL THREE TAXI CABS FOR FEBRUARY 10, 1987

7. Consideration was given to a motion to schedule a public hearing relative to the issuance of a Certificate of Public Convenience and Necessity to Beaver Lake Cab Company for February 10, 1987.

Mayor Bissette said the adoption of this resolution will authorize the City Manager to issue a Certificate of Public Convenience and Necessity to Beaver Lake Cab Company pursuant to Section 27-34 of the Code of Ordinances of the City of Asheville upon proof of financial responsibility in accordance with N.C. Gen. Stat. Sec. 20-280 for the operation of three (3) additional cabs.

in the area due to statistics showing that Hardee's Restaurants do 75% of their business at the breakfast and lunch times rather than in the evening hours.

Mayor Bissette closed the public hearing at 4:59 p.m.

Councilman Boland moved to approve the site plan of the Beaucatcher Cinemas, located at U.S. 70 and Haw Creek Lane, showing the addition of a Hardee's Restaurant, subject to the conditions outlined by the Planning and Zoning Commission and further that the sign be no higher than 30'. This motion was seconded by Councilman Tisdale and carried unanimously.

ORDINANCE NO. 1622 - BUDGET ORDINANCE AMENDMENT TO APPROPRIATE CURRENT YEAR CDBG ENTITLEMENT FUNDS

4. Consideration was given to a budget ordinance amendment to appropriate current year CDBG Entitlement Funds.

Mayor Bissette said the City has recently received its letter of Credit from HUD for $1,072,000 in Community Development Block Grant funds for the current year program. The allocation of these funds was approved by City Council on May 27 and November 18, 1986. This ordinance will appropriate the funds into the budget.

Councilman Michalove moved for the adoption of Ordinance No. 1622. This motion was seconded by Councilman Price.

On a roll call vote of 7-0, Ordinance No. 1622 passed on first and final reading.

Complete text of Ordinance No. 1622 will be found in Ordinance Book No. 11 at page 108.

RESOLUTION NO. 87-7 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH PRICE WATERHOUSE FOR AUDITING SERVICES FOR THE FISCAL YEAR ENDING JUNE 30, 1987

5. Consideration was given to a resolution authorizing the City Manager to execute an agreement with Price Waterhouse for auditing services for the fiscal year ending June 30, 1987.

Mayor Bissette said N.C. Gen. Stat. Sec. 159-34 requires that local governments of North Carolina submit an annual audit to the Local Government Commission. Price Waterhouse, current auditors for the City of Asheville, has submitted a proposal to perform auditing services as independent accountants for the City of Asheville for the fiscal year ending June 30, 1987. Audit fees for fiscal year ending June 30, 1986 - $29,100; CPI increase for all items, all urban consumers June 30, 1986, over June 30, 1985 - 1.7%; Audit fees for fiscal year ending June 30, 1987 - $29,600.

Mayor Bissette said after an intensive audit selection, three years ago, by a Council Auditing Selection Committee, Price Waterhouse was contracted for auditing services for three years. He said the three year contract expires this year, and the City staff is recommending that the City continue with Price Waterhouse for auditing services for the fiscal year ending June 30, 1987.

As you will notice, the plan includes goals and timetables for achieving the goals which were requested by the Task Force. The underutilization of minorities and females is noted in appropriate EEO job categories. Further detail is provided by data on City departments, as well as for the City government as a whole. By providing information on each department, information is also provided on the placement of minorities and women in City specified job classifications by simple inspection of the data. At least one member of the Task Force felt that even more specificity was called for and should indicate the number of minorities and females to be hired, promoted, etc., by June, 1987. Other members felt that since the goal is to decrease underutilization, percentages were adequate. It was also pointed out that any greater specificity comes close to "quotas" which are legally problematic and that this could lead to increasing devisiveness in the City's labor force.

The definition of the Relevant Labor Market was also of concern to the members of the Task Force. (It is defined as the labor force within the Buncombe County SMSA.) There was some support for limiting it to the City's labor force but it was also mentioned that the SMSA is used by other cities and that the Relevant Labor Market should reflect the whole area from which the City's labor force is drawn. The Task Force concluded that over the next six (6) months, the City should collect relevant data for the City and to "blend" this data with that from the SMSA in determining the goals of Affirmative Action.

There was a consensus that the City should appoint a full-time recruiter to ensure a vigorous recruitment effort. This effort would be focused on recruiting high quality recruits in general, as well as blacks and females, to meet the goals of Affirmative Action.

It was felt that some modification may be necessary in the Civil Service Law to make it possible to reach the City's Affirmative Action goals. I feel that Don Hayman's report on possible modifications should be in hand before the City Council passes an Affirmative Action Plan. That is, it may be difficult to reach our goals if the "Rule of 3" is retained. This may cause some delay because any amendments would have to be supported by legislative act.

As you will recall, the NAACP complaint concerning the absence of any black police officer above the rank of Sargeant, led to the creation of the Equal Employment Opportunity Task Force. With this in mind, the Task Force proposed that this situation be corrected as soon as possible. It was felt that the City Manager should explore what other cities have done to remedy similar situations and any other legal options that may come to mind.

While some members of the Task Force argued for an independent agency to handle all aspects of testing, it was finally decided that this should remain with Civil Service. It was felt, however, that greater attention should be given by Civil Service to the validity of tests, their possible racial bias, and how the tests are corrected.

WB/cah

Councilman Michalove moved to schedule a public hearing relative to the issuance of the Certificate of Public Convenience and Necessity to Beaver Lake Cab Company for February 10, 1987. This motion was seconded by Councilman Price and carried unanimously.

Cecil Jackson, attorney for Paul Davis, owner of the Beaver Lake Cab Company, said Mr. Davis was issued three Certificates of Public Convenience and Necessity in September, 1986. He said his client had originally asked for 12 Certificates, and City Council issued three. He said he would request that the Certificate of Affidavit presented in September, 1986, would still apply to this additional request.

SCHEDULING PUBLIC HEARING - SITE PLAN - INDUSTRIAL PARK

8. Councilman Michalove moved to schedule a public hearing relative to the site plan of the Airport Industrial Park for February 3, 1987. This motion was seconded by Councilman Tisdale and carried unanimously.

DISCUSSION RELATIVE TO AFFIRMATIVE ACTION PLAN

9. Mayor Bissette said members of Council received a report from the Chairman of the Equal Employment Opportunity Task Force relative to the adoption of an Affirmative Action Plan in the Pre-Council work session. He said Council would be scheduling a public hearing relative to the Plan in the near future. He said the City is currently looking into requested amendments to the Civil Service Law. He said Mr. Don Hayman, former staff member of the Institute of Government, is currently looking into revisions to our Civil Service Law. He said the City Staff is going to check with Mr. Hayman to see when his report would be ready.

Councilman Boland requested that the following letter, relative to the Affirmative Action Plan, be included in the minutes:

MEMORANDUM TO: Mayor and Members of Council

FROM: Walt Boland, Chairman
Equal Employment Opportunity Task Force

DATE: January 16, 1987

SUBJECT: Affirmative Action Plan

This memorandum is to give you some idea of the thoughts and sentiments of the Equal Employment Opportunity Task Force as we reviewed the revised draft of the plan. I hope it will help to put the plan in a proper perspective.

All members of the Task Force feel it is important that the Mayor, the City Council, and the City Manager be committed to a vigorous implementation of an Affirmative Action Plan. I mentioned to the members that it was my belief that there was such a commitment and that we should proceed accordingly.

Tuesday - January 27, 1987 - 4:00 p.m.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Mary Lloyd Frank; Councilmen Wilhelmina Bratton, Walter R. Boland; Kenneth M. Michalove, Norma T. Price, and George M. Tisdale; Corporation Counsel William F. Slawter, City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: None

INVOCATION

Councilman George Tisdale asked the audience to stand for the Pledge of Allegiance to the Flag.

APPROVAL OF THE MINUTES - JANUARY 20, 1987 MEETING

1. Consideration was given to the approval of the minutes of the January 20, 1987, meeting.

Mayor Bissette announced the approval of the minutes as submitted.

PROCLAMATION - "CATHOLIC SCHOOLS WEEK" - FEBRUARY 1-7, 1987

2. Mayor Bissette proclaimed the week of February 1-7, 1987 as "Catholic Schools Week".

PROCLAMATION - MONTH OF FEBRUARY - "AMERICAN HISTORY MONTH"

3. Mayor Bissette read a proclamation proclaiming the month of February, 1987 as "American History Month" in the City of Asheville.

Mayor Bissette presented the proclamation to Carolyn Anderson, Chairman of the Ruth Davidson Chapter of the National Society Daughters of the American Revolution.

PROCLAMATION - MONTH OF FEBRUARY, 1987 - "AMERICAN HEART MONTH"

3a. Mayor Bissette read a proclamation proclaiming the month of February, 1987, as "American eart Month".

Mayor Bissette presented the proclamation to Jimmie Cochran, Regional Director of the American Heart Association.

RESOLUTION NO. 87-10 - RESOLUTION OF APPRECIATION TO JESSE G. RAY, SR. FOR SERVICES AS CHAIRMAN OF THE HOUSING AUTHORITY OF THE CITY OF ASHEVILLE

4. Consideration was given to a Resolution of appreciation to Jesse G. Ray, Sr. for services as Chairman of the Housing Authority of the City of Asheville.

RESOLUTION NO. 87-9 - RESOLUTION AUTHORIZING CONDEMNATION OF PROPERTY IN THE CHESTNUT STREET BRIDGE REPLACEMENT PROJECT

10. Consideration was given to a resolution authorizing condemnation of property in the Chestnut Street Bridge Replacement Project.

Mayor Bissette read the resolution, stating that the City has, through the Housing Authority of the City of Asheville, dealt with the property owners owning property along the Chestnut Street Bridge Replacement Project. He said negotiations with the property owners have not resulted in a mutually agreeable purchase price of the properties involved in the project. He said the City of Asheville desires that the Housing Authority provide acquisition and relocation services to the City for this project. He said this resolution would authorize the Housing Authority to acquire by condemnation, if necessary, the following parcels in order that the City of Asheville might carry out its approved plan of replacing the Chestnut Street Bridge;

PARCEL	OWNER	ADDRESS
1	Adams	67 Woodlawn Avenue
3	Tucker	66 Elizabeth Street
4	Murphy	West Chestnut Street
7	McGowan	West Chestnut Street

Upon motion of Councilman Tisdale, seconded by Councilman Price, Resolution No. 87-9 was unanimously adopted.

Complete text of Resolution No. 87-9 will be found in Resolution Book No. 16 at page 259.

RALPH BISHOP - COMMENTS RELATIVE TO LOTTERY SALES IN THE CITY OF ASHEVILLE

Ralph Bishop again spoke to members of Council relative to lottery sales in the City of Asheville.

ADJOURNMENT

Upon motion of Councilman Price, seconded by Councilman Boland, the meeting adjourned at 5:45 p.m.

Mayor

City Clerk

PUBLIC HEARING - SUBDIVISION OF STRATFORD OAKS

6. A public hearing was held relative to the final approval of the subdivision of Stratford Oaks.

Mayor Bissette said the Asheville Planning and Zoning Commission, at a meeting held September 10, 1986, approved the preliminary plat of Stratford Oaks subject to the Board of Adjustment granting a variance on lot width on the cul-de-sac. The project consists of the subdivision of 10 lots off Mann Drive in Haw Creek. The plat was prepared by Jensen Engineering for Bass and Hayes Builders, Inc., Developer.

Mayor Bissette opened the public hearing at 4:42 p.m.

The City Clerk presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said the subdivision will be located on Mann Drive on the upper end of Haw Creek. He said the development would be served by the new sewer line recently installed by the County, and a new water line would be added to service this project, as well as existing properties. He said the Zoning Board of Adjustment granted a variance for front lot widths due to the design of the subdivision. He said all lots would be developed simultaneously and all building would be under construction within the next two months.

Mayor Bissette closed the public hearing at 4:45 p.m.

Councilman Boland moved for the approval of the subdivision of Stratford Oaks. This motion was seconded by Vice Mayor Frank and carried unanimously.

PUBLIC HEARING - SITE PLAN OF M. B. HAYNES CORPORATION - DEAVERVIEW ROAD

7. A public hearing was held relative to a site plan of M. B. Haynes Corporation located on Deaverview Road.

Mayor Bissette said the Asheville Planning and Zoning Commission, at a meeting held December 10, 1986, reviewed a site plan of M. B. Haynes Corporation, located on Deaverview Road, showing the addition of an Alden Metal Building for lease. The site plan was prepared and submitted by M. B. Haynes, Developer. After review and discussion, the Commission voted to approve the project subject to: 1) provision of a 20' buffer on the east property line next to park; 2) compliance with Tree Ordinance; and 3) compliance with Erosion Control Ordinance.

Mayor Bissette opened the public hearing at 4:47 p.m.

The City Clerk presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said the development would consist of one additional 8,000 sq. ft. building. He said all water and sewer facilities are in place and all parking would be in compliance with the ordinances. He said a 20' buffer would be provided on the east property line next to Deaverview Park. He said the project would be in compliance with the Tree Ordinance and the Erosion Control Ordinance.

Mayor Bissette said Jesse G. Ray, Sr. has been associated with the Redevelopment Commission and the Housing Authority of the City of Asheville from July 22, 1969 to December 31, 1986, serving as Board Member, Vice Chairman and Chairman. This resolution will express City Council's appreciation to Jesse G. Ray, Sr. for his outstanding leadership, dedication and commitment to the City of Asheville.

Upon motion of Councilman Bratton, seconded by Councilman Tisdale, Resolution No. 87-10 was unanimously adopted.

Complete text of Resolution No. 87-10 will be found in Resolution Book No. 16 at Page 260.

PUBLIC HEARING - SITE PLAN OF WEST TERRACE CENTER - PATTON AVENUE

5. A public hearing was held relative to a site plan of West Terrace Center located on Patton Avenue.

Mayor Bissette said the Asheville Planning and Zoning Commission at a meeting held December 10, 1986, reviewed a site plan of West Terrace Center located on Patton Avenue. The site plan was prepared by Danie Johnson, Architect, for R. L. Coleman and Company, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to approve the project subject to: 1) signage to be 25 square feet per retail space (3); 2) 15' clearance to sanitary and storm sewer; 3) 1 to 1-1/2 slope for sanitary sewer; 4) compliance with Tree Ordinance; and 5) compliance with Erosion Control Ordinance.

Mayor Bissette opened the public hearing at 4:37 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said the Planning Commission had recommended approval of the site plan subject to several conditions which were outlined by Mayor Bissette. He said the erosion control plan has been submitted to the City Engineering Department. He said the development consists of office buildings to an existing complex. He said entry points to the complex have been oriented inwardly which will prove more effective for the development. He said the complex is located on commercially zoned property and is in compliance with all codes and ordinances of the City of Asheville. He said trees will be planted in compliance with the Tree Ordinance.

Stewart Coleman, with the R. L. Coleman Company, spoke in support of the development, stating that all ordinances and factors have been considered and will be in compliance.

Mayor Bissette closed the public hearing at 4:41 p.m.

Councilman Price moved to approve the Group Development Plan of the West Terrace Center on Patton Avenue subject to the recommendations of the Planning and Zoning Commission, with particular emphasis being placed on compliance of the Tree Ordinance on Druid Drive. This motion was seconded by Councilman Michalove and carried unanimously.

RESOLUTION NO. 87-11

C. Consideration of a resolution authorizing the City Manager of the City of Asheville to sign an application for grant funds from the North Carolina Arts Council.

HIGHLIGHTS: The North Carolina Arts Council and the Community Arts Council of Western North Carolina have funds available through the Grassroots Arts Program for arts programming. The Parks, Recreation, and Public Facilities Department wishes to promote the arts in the community through a July 4th Celebration, an ethnic arts festival, and arts projects for senior citizens. This grant request will be matched through existing in-kind staff services and requires no cash match by the City of Asheville. This resolution will authorize the City Manager to sign an application for grant funds in the amount of $3,200.00 from the North Carolina Arts Council and the contract for implementation of the arts project upon grant approval.

FISCAL IMPACT: $3,200.00 for arts in the community. In-kind expenses will be in the form of salaries for recreation program personnel. There will be no direct impact on present operating budget.

Resolution Book No. 16 - Page 261

RESOLUTION NO. 87-12

D. Consideration of a resolution reappointing member to the City of Asheville Board of Alcoholic Control. (J. W. Byers)

HIGHLIGHTS: The term of J. W. Byers expired on November 13, 1986. This resolution will reappoint Mr. Byers for a three (3) year term, term expiring November 13, 1989, or until his successor is duly appointed and qualified.

FISCAL IMPACT: None

Resolution Book No. 16 - Page 262

RESOLUTION NO. 87-13

E. Consideration of a resolution appointing member to the Asheville Transit Authority.

HIGHLIGHTS: This resolution will appoint Raymond F. Myers to fill the unexpired term of Brig. Gen. Walter J. Renfroe, term expiring December 31, 1990 or until his successor is duly appointed and qualified.

FISCAL IMPACT: None

Resolution Book No. 16 - Page 263

Mayor Bissette closed the public hearing at 4:48 p.m.

Vice Mayor Frank moved to approve the site plan of the M. B. Haynes Corporation located on Deaverview Road subject to the recommendations of the Planning and Zoning Commission. This motion was seconded by Councilman Tisdale and carried unanimously.

APPROVAL OF CONSENT AGENDA

8. Mayor Bissette said the followng items are of a routine nature, and they have been previously reviewed by the members of the City Council. Therefore, by unanimous vote to approve these items, the City Council may, pursuant to the procedures established in Ordinance No. 1008, adopt all of the items with one motion without the full reading and/or separate motion adopting each individual item. Upon the request of a citizen, a member of the City Council, and/or a member of the City staff, any single item scheduled for approval on the consent agenda may be considered separately.

Councilman Price requested that Item E, resolution reappointing Frank Smith to the Metropolitan Sewerage District Board be removed from the Consent Agenda.

A. Consideration of a motion relative to bids received for a portable whole tree chipper.

HIGHLIGHTS: Sealed bids were invited to furnish one (1) Trailer Mounted Whole Tree Chipper for the Parks, Recreation and Public Facilities Department. Twenty-one (21) bid packages were mailed to prospective bidders, however, only one bid was received. This bid was from Morbark North Carolina, Inc., Raleigh, North Carolina. Specifications were clear and concise. Provisions were included in the bid that gave bidders an opportunity to make requests for approved equals; clarification of specifiations; exceptions to specifications and/or protest specifications.

FISCAL IMPACT: $12,939.00 - Funds for this purchase are from the Parks, Recreation and Public Facilities Department appropriations account code 20-500-0740.

B. Consideration of a motion relative to bids received for annual contract for Bituminous Concrete Materials (asphalt).

HIGHLIGHTS: Sealed bids were invited to furnish the City's annual requirement for Bituminous Concrete Materials (Asphalt) for force account re-surfacing the street repair. One bid was received. This bid was from APAC-Carolina, Inc., Asheville, North Carolina. The total bid is $4,862.50 less than last year. This represents a savings of over 3%. Clark Brown, Director of Public Works, has reviewed the bid and approved it for award.

FISCAL IMPACT: $156,875.00 - There are sufficient funds in the Street Division Budget to cover this cost.

capital funding from $962,000 to $1,032,000. The federal share will be $825,600. The state share will be $103,200, and the local share $103,200. This funding will allow the Asheville Transit Authority to purchase the radios and construct the parts room as originally proposed. A public hearing is required pursuant to UMTA regulations.

FISCAL IMPACT: This additional funding, if approved, will increase the capital funding from $962,000 to $1,032,000. The federal share will be $825,600; the state share will be $103,200, and the local share will be $103,200.

Upon motion of Councilman Price, seconded by Councilman Bratton, the Consent Agenda was unanimously approved.

RESOLUTION NO. _____ - RESOLUTION REAPPOINTING MEMBER TO THE METROPOLITAN SEWERAGE DISTRICT BOARD (FRANK SMITH)

9. Consideration was given to a resolution reappointing Frank Smith as a member of the Metropolitan Sewerage District Board.

Mayor Bissette said this resolution would reappoint Mr. Smith for a term of three years, term expiring on January 19, 1990, or until his successor is duly appointed and qualified.

Leah Karpen, with the League of Women Voters, said members of Council should give notice of all appointments to boards and commissions in order that other qualified individuals could serve on these boards. She questioned whether or not Council limits the number of terms an individual can serve on a particular board.

Mayor Bissette noted that the City Council has a general policy that an individual can serve two terms on a particular board; however, in certain circumstances, Council deviates from this policy.

Michael Patel, Chairman of the Waste Management Committee of the League of Women Voters, referring to the reappointment of Frank Smith, said he felt there is a lack of communication and accountability on the part of the Metropolitan Sewerage District Board members, who are appointed by elected officials but are not required to report back to those officials after the appointment is made. He said the Metropolitan Sewerage District Board makes decisions on major issues affecting the City, and these appointments should be carefully considered. Referring to the Metropolitan Sewerage District's decision to build a sewerage incinerator, Mr. Patel said the MSD members refused to appear at a public forum on the issue sponsored by the League of Women Voters. He said he felt there is a need for more interaction between the Metropolitan Sewerage District and the public because these issues affect all of the City of Asheville and Western North Carolina.

Rose McClure, Conservation Chairman of the Asheville Garden Club, referring to the Metropolitan Sewerage Districts decision to construct an incinerator rather than composting, said members of Council should address this issue thoroughly.

F. Consideration of a motion to schedule a public hearing relative to a site plan of Mountain View Condominiums to be located on Onteora Boulevard for February 17, 1987.

HIGHLIGHTS: The Asheville Planning and Zoning Commission at a meeting held January 14, 1987, reviewed a site plan of Mountain View Condominiums to be located on Onteora Boulevard. The site plan was prepared by Dobson Engineering for Fairway Realty Company, Developer, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to approve the project subject to the following conditions: 1) compliance with Erosion Control Ordinance; 2) modify plan to provide for a minimum of 10' driveway extension to provide for backing out of the end parking spaces; 3) that developer seek approval of State in regard to the hydraulic calculations on the force main and ability of the gravity system to receive discharge; and 4) developer be required to comply with City's Buffering Ordinance with specific attention to the screening on Onteora Boulevard.

FISCAL IMPACT: None

G. Consideration of a motion to schedule a public hearing relative to a site plan of The Cloisters (Condominiums and Patio Homes) to be located on the Carmelite site on Fairway Drive for February 10, 1987.

HIGHLIGHTS: The Asheville Planning and Zoning Commission at a meeting held January 14, 1987, reviewed a site plan of The Cloisters (Condominiums and Patio homes) to be located on the Carmelite site on Fairway Drive. The site plan was prepared by Jensen Engineering for Nappier and Gunnells Properties, Inc., Developer, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to approve the project subject to the following conditions: 1) compliance with Buffering Ordinance; 2) compliance with Erosion Control Ordinance; and 3) that the second entrance (Carmelite Drive into Ambler Road) be continually maintained for emergency use only and not used by project.

FISCAL IMPACT: None

H. Consideration of a motion scheduling a public hearing relative to the adoption of a resolution authorizing the filing of a grant amendment with the Department of Transportation, United States of America, under the Urban Mass Transportation Act of 1964, as amended for March 3, 1987.

HIGHLIGHTS: In December, 1986, the Asheville Transit Authority accepted bids approved by grant NC-90-X046. The bids received were well over the budgeted amount but were comparable to bids received in recent years. This amendment will authorize the Mayor to file a grant amendment application to increase the

APPROVAL OF FILING OF APPLICATION FOR GRANT FUNDS FROM THE NORTH CAROLINA DIVISION OF ARCHIVES AND HISTORY - HISTORIC RESOURCES COMMISSION

13. The City Manager said he had received a request from the Historic Resources Commission for Council's approval to authorize the Mayor to submit an application for grant funds to the North Carolina Division of Archives and History. He said this would allow the Historic Resources Commission an opportunity to continue the identification of historic individual properties in Asheville and for the nomination of these properties to the National Register of Historic Places. He said the deadline for filing the application is January 31, 1987. He said all properties sought for the nomination would be located in the City of Asheville. He said the Historic Resources Commission would be requesting $5,000 in the grant application and estimate that approximately $1,000 of the total expense could be considered as in-kind contributions, leaving $4,000 to be raised from City funds. He said these funds would not be appropriated until after the grant is awarded and in any case would not be expended until after July 1, 1987.

Councilman Michalove said he could not support the filing of the application for additional funds until he knows more about the total budget and work program of the Historic Resources Commission.

Several members of Council expressed concern relative to considering such actions without prior discussions.

After discussion, Vice-Mayor Frank moved to authorize the Mayor to file an application with the North Carolina Division of Archives and History for grant funds in the amount of $5,000. This motion was seconded by Councilman Price and carried on a voice vote of 4-3, with Councilman Michalove, Councilman Bratton, and Councilman Tisdale voting "no".

MAYOR BISSETTE - COMPLAINT FROM JOHN GREGG OF CAUSTIC SODA COMPANY - TRUCKS USING SHELBOURNE ROAD

14. Mayor Bissette said he had been contacted by John Gregg of the Caustic Soda Company relative to a hardship he is having by his trucks not being allowed to utilize Shelbourne Road.

After discussion, Council instructed that the City Manager look into the concerns of Mr. Gregg, and report back to members of Council.

Councilman Price said this is a major concern of the residents on Shelbourne Road, and requested that when this item is discussed by Council that Shelbourne Road residents be notified prior to Council taking any action on Mr. Gregg's request that his trucks be allowed to use Shelbourne Road.

ADJOURNMENT

Upon motion of Councilman Boland, seconded by Councilman Price, the meeting adjourned at 5:40 p.m.

MAYOR

CITY CLERK

Margaret Muller, referring to the reappointment of Mr. Smith, said she felt that whoever is on the Metropolitan Sewerage District Board should feel a real responsibility to report their actions to the Asheville City Council. She said, in her opinion, Council members should talk with Mr. Smith and other members of the Metropolitan Sewerage District Board to see what their feelings are on the current issue of a sewerage incinerator, and that members of Council should know much more about this issue before they decided who to appoint to this particular Board.

After discussion, Councilman Price moved to postpone action on the resolution reappointing Mr. Smith until members of Council could talk with Mr. Smith and other City appointees on the Metropolitan Sewerage District Board, and in order to give Mr. Smith an opportunity to respond to the concerns expressed during the meeting. This motion was seconded by Councilman Boland and carried unanimously.

RESOLUTION NO. 87-14 - RESOLUTION APPOINTING MEMBER TO THE RECREATION BOARD FOR ASHEVILLE (MARVIN A. NOCKOW)

10. Consideration was given to a resolution appointing Marvin A. Nockow as a member of the Recreation Board for Asheville.

Mayor Bissette read the resolution stating that Marvin A. Nockow would be appointed a member of the Recreation Board for a three-year term, term expiring on June 30, 1989, or until his successor has been duly appointed and qualified.

Upon motion of Councilman Michalove, seconded by Vice-Mayor Frank, Resolution No. 87-14 was unanimously adopted.

Complete text of Resolution No. 87-14 will be found in Resolution Book No. 16 at Page 264.

CLAIMS - BOB ALEXANDER (PARKS) - PAT MARSHALL (WATER) - EVERETT TATE (SEWER) - T. W. PRITCHARD (WATER) - DAVID PRUDEN (SANITATION) - MEDFORD ROOFING (STREETS) - FRIENDLY APPLIANCE (STREETS) - QUALITY BAKERY (STREETS) - STEVENS PUB (STREETS)

11. The City Manager presented claims received from Bob Alexander, Pat Marshall, Everett Tate, T. W. Pritchard, David Pruden, Medford Roofing, Friendly Appliance, Quality Bakery and Stevens Pub.

Mayor Bissette referred the claims to the Corporation Counsel for investigation and recommendation.

MAYOR BISSETTE - REQUEST OF ELKS LODGE ON HAYWOOD STREET FOR CABLEVISION SERVICE

12. Mayor Bissette said he had received a call from Jack McCurry with the Elks Lodge at 232 Haywood Street stating that he had been "stonewalled" by the Asheville Cablevision Company, and could not receive cablevision service.

Councilman Tisdale said it is his understanding that no other customers in the area wanted cablevision service, but he would talk to Asheville Cablevision again about this particular request.

approval in regard to flight paths and heights. He said the condition outlined by the Planning and Zoning Commission that there be a 50' natural buffer retained along the I-26 right-of-way had been resolved. He said the proposed warehouse facility meets all parking requirements and is in compliance with the Group Development section of the Zoning Ordinance.

Art Baden, representing Potter-Shackelford Construction Company, said plans have been submitted to the FAA in Atlanta, and there seems to be no problem with the plans. He said at the present time, there are no plans for signage; however, if the tenant desires to have signs, the sign package would be submitted to the Planning and Zoning Commission and Asheville City Council for approval.

Mayor Bissette closed the public hearing at 4:25 p.m.

Vice-Mayor Frank moved to approve the site plan of the proposed warehouse facility to be located on Fanning Bridge Road subject to the conditions outlined by the Planning and Zoning Commission. This motion was seconded by Councilman Tisdale and carried unanimously.

RESOLUTION NO. 87-15 - RESOLUTION AUTHORIZING THE SALE OF CITY-OWNED PROPERTY LOCATED EAST OF INTERSECTION OF FANNING BRIDGE ROAD AND AIRPORT ROAD

3. Consideration was given to a resolution authorizing the sale of City-owned property located east of the intersection of Fanning Bridge Road and Airport Road.

Mayor Bissette said the City of Asheville received an offer in the amount of $325,000 for the purchase of a tract of land located east of the intersection of Fanning Bridge Road and Asheville Airport Road. No upset bids have been received, and this resolution will authorize the Mayor to execute a warranty deed conveying the property to Hart-Asheville Partnerships.

Mayor Bissette said the sale of this property was contingent upon: 1) the purchase price for the property shall be $325,000 cash at closing, said closing to be on or before the 1st day of April, 1987; 2) Hart-Asheville Partnership shall construct upon the property a distribution facility of approximately 290,000 sq. ft., construction to begin by December 31, 1987; 3) Hart-Asheville Partnership shall construct upon the property a water storage tank at an approximate cost of $125,000 with a storage capacity of not less than 200,000 gallons and a pump capable of reducing not less than 1,500 gallons per minute. Construction of the storage tank and pump is to commence by December 31, 1987; 4) the City shall, by contract, reserve the right to repurchase the property from Hart-Asheville Partnership if the partnership fails to commence construction of the distribution facility, water tank and pump by December 31, 1987.

Upon motion of Councilman Boland, seconded by Councilman Tisdale, Resolution No. 87-15 was unanimously adopted.

Complete text of Resolution No. 87-15 will be found in Resolution Book No. 16 at page 265 and 266.

Tuesday - February 3, 1987 - 4:00 p.m.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Mary Lloyd Frank; Councilmen Wilhelmina Bratton, Walter R. Boland; Norma T. Price, and George M. Tisdale; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Councilman Kenneth Michalove

INVOCATION

The invocation was given by Councilman Norma Price.

APPROVAL OF THE MINUTES - JANUARY 27, 1987 MEETING

1. Consideration was given to the approval of the minutes of the January 27, 1987, meeting.

Mayor Bissette announced the approval of the minutes as submitted.

PUBLIC HEARING - SITE PLAN - WAREHOUSE FACILITY - FANNING BRIDGE ROAD

2. A public hearing was held relative to a site plan of a proposed warehouse facility to be located on Fanning Bridge Road.

Mayor Bissette said the Asheville Planning and Zoning Commission, at a meeting held January 20, 1987, reviewed a site plan of a proposed warehouse facility to be located on Fanning Bridge Road. The site plan was prepared by Gray Engineering Consultants, Inc., for Potter-Shackelford Construction Company, both of Greenville, South Carolina and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to approve the project subject to the following conditions: 1) that there be a 50' natural buffer retained along the I-26 right-of-way; 2) that the project comply with the City's Buffering Ordinance on the other three sides of the site; 3) that the developer resubmit the project at the appropriate time for any request to lessen or thin the 50' buffer, as well as resubmission of signage approval; 4) contingent upon FAA approval; 5) a definitive indication of access to the facility from Asheville Airport Road; and 6) compliance with Erosion Control Ordinance.

Mayor Bissette opened the public hearing at 4:17 p.m.

Verl Emrick, Director of Planning, said the proposed project would consist of 290,000 sq. ft. of warehouse facility and an additional 120,000 sq. ft. anticipated for future development. He said the Planning and Zoning Commission recommended approval subject to several conditions. He said the North Carolina Department of Transportation was dissatisfied with the first plans that were submitted due to the radius into Asheville Airport Road. He said revised plans would be submitted to the North Carolina Department of Transportation. He said the plans were also submitted to the FAA for

Upon motion of Vice-Mayor Frank, seconded by Councilman Bratton, Resolution No. 87-17 was unanimously adopted.

Complete text of Resolution No. 87-17 will be found in Resolution Book No. 16 at page 267.

RESOLUTION NO. 87-18 - RESOLUTION APPOINTING MEMBER TO THE BOARD OF ADJUSTMENTS UNDER ORDINANCE NO. 322, AS AMENDED (ROBERT A. YORK)

6. Consideration was given to a resolution appointing Robert A. York as a member of the Board of Adjustments for a term of three years, term expiring on January 21, 1990.

Mayor Bissette read the resolution.

Upon motion of Vice-Mayor Frank, seconded by Councilman Bratton, Resolution No. 87-18 was unanimously adopted.

Complete text of Resolution No. 87-18 will be found in Resolution Book No. 16 at page 268.

RESOLUTION NO. 87-19 - RESOLUTION APPOINTING MEMBER TO THE BOARD OF ADJUSTMENTS UNDER ORDINANCE NO. 322, AS AMENDED (BARNEY P. WOODARD, JR.)

7. Consideration was given to a resolution appointing Barney P. Woodard, Jr., as a member of the Zoning Board of Adjustments for a term of three years, term expiring on January 21, 1990.

Mayor Bissette read the resolution.

Upon motion of Vice-Mayor Frank, seconded by Councilman Bratton, Resolution No. 87-19 was unanimously adopted.

Complete text of Resolution No. 87-19 will be found in Resolution Book No. 16 at page 269.

RESOLUTION NO. 87-20 - RESOLUTION APPOINTING MEMBER TO THE RECREATION BOARD FOR ASHEVILLE (BESS BAIRD)

8. Consideration was given to a resolution appointing Bess Baird as a member of the Recreation Board for Asheville for a term of three years, term expiring on June 30, 1989.

Mayor Bissette read the resolution.

Upon motion of Vice-Mayor Frank, seconded by Councilman Bratton, Resolution No. 87-20 was unanimously adopted.

Complete text of Resolution No. 87-20 will be found in Resolution Book No. 16 at page 270.

RESOLUTION NO. 87-21 - RESOLUTION APPOINTING MEMBER TO THE RECREATION BOARD FOR ASHEVILLE (CAROLYN TINGLE)

9. Consideration was given to a resolution appointing Carolyn Tingle as a member of the Recreation Board for Asheville for a term of three years, term expiring on June 30, 1989.

APPROVAL OF SALE OF DISPOSAL PARCELS 101, 102, 103, 108, 109, 177-A, 96-B.1 IN THE EAST RIVERIDE URBAN RENEWAL PROJECT AND THE EAST END/VALLEY STREET COMMUNITY IMPROVEMENT PROJECT

4. Consideration was given to a motion approving the sale of Disposal parcels 101, 102, 103, 108, 109, 177-A, 96-B.1 in the East Riverside Urban Renewal Project and the East End/Valley Street Community Improvement Project.

Mayor Bissette said the Housing Authority has tentatively accepted the following bids for certain disposal parcels in the East Riverside Urban Renewal Project and the East End/Valley Street Community Improvement Project.

Parcel	Reuse	Price	Bid	Redeveloper
101	Residential	$ 5,500.00	$ 6,511.00	R & R Associates, Inc.
102	Residential	4,700.00	5,241.00	Carl and Annie Thompson
103	Residential	5,000.00	5,516.50	Leonard & Vera Williams
108	Residential	6,600.00	7,901.00	Ellen Gilchrist
109	Residential	6,400.00	7,051.00	Derek & Youlanda Hunting
177-A	Residential	1,500.00	1,500.00	Ann Hunting
96-B.1	Lt. Industrial	27,200.00	27,205.00	Thomas & Kay Finger

Disposal Parcel 101 of the East End/Valley Street Area is to be developed with single family home for resale. The eventual purchaser of the completed home will be able to obtain the Incentive Housing Subsidy.

Disposal Parcels 102, 103, 108, and 109 are located in the East End/Valley Street Area and are residential lot sales for single family structures under the Incentive Housing Program.

Disposal Parcel 96-B.1 is an industrial lot located in the East Riverside Project Area. The proposed development will consist of a 12,000 sq. ft. metal building designed for a metal finishing plant at approximately $250,000.00. The plant will employ 11 people.

Disposal Parcel 177-A is a substandard residential lot that is being sold to an adjacent owner.

note: Res. No. 87-16 inadvertently omitted.

Vice-Mayor Frank moved to approve the sale of Disposal Parcels 101, 102, 103, 108, 109, 177-A, 96-B.1 and the East Riverside Urban Renewal and the East End/Valley Street Community Improvement Project as recommended by the Housing Authority. This motion was seconded by Councilman Price and carried unanimously.

RESOLUTION NO. 87-17 - RESOLUTION REAPPOINTING MEMBER TO THE METROPOLITAN SEWERAGE DISTRICT BOARD (FRANK SMITH)

5. Consideration was given to a resolution reappointing Frank Smith as a member of the Metropolitan Sewerage District Board for a term of three years, term expiring on January 19, 1990.

Mayor Bissette read the resolution.

RALPH BISHOP - LOTTERY SALES

Ralph Bishop again spoke to members of Council relative to lottery sales in the City of Asheville.

ADJOURNMENT

Upon motion of Vice-Mayor Frank, seconded by Councilman Price, the meeting adjourned at 4:50 p.m.

Mayor

City Clerk

Mayor Bissette read the resolution.

Upon motion of Vice-Mayor Frank, seconded by Councilman Bratton, Resolution No. 87-21 was unanimously adopted.

Complete text of Resolution No. 87-21 will be found in Resolution Book No. 16 at page 271.

RESOLUTION NO. 87-22 - RESOLUTION APPOINTING MEMBER TO THE ASHEVILLE-BUNCOMBE COMMUNITY RELATIONS COUNCIL (GLENDA S. BURGIN)

10. Consideration was given to a resolution appointing Glenda S. Burgin as a member of the Asheville-Buncombe Community Relations Council for a term of three years, term expiring on December 31, 1989.

Mayor Bissette read the resolution.

Upon motion of Vice-Mayor Frank, seconded by Councilman Bratton, Resolution No. 87-22 was unanimously adopted.

Complete text of Resolution No. 87-22 will be found in Resolution Book No. 16 at page 272.

RESOLUTION NO. 87-23 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT BY AND BETWEEN THE CITY OF ASHEVILLE AND PACK PLACE EDUCATION, ARTS AND SCIENCE CENTER, INC.

11. Consideration was given to a resolution authorizing the Mayor to execute an agreement by and between the City of Asheville and Pack Place Education, Arts and Science Center, Inc.

The City Manager said this resolution would authorize the Mayor to enter into an agreement whereby the City shall advance to Pack Place the balance of $150,000 donation, plus accrued interest, and Pack Plaza Associates Ltd. Partnership to Pack Place in increments of $50,000. He said Pack Place shall present a full accounting to the City's Downtown Development Director, specifying to whom and for what purposes all amounts advanced by the City had been spent.

Upon motion of Vice-Mayor Frank, seconded by Councilman Price, Resolution No. 87-23 was unanimously adopted.

Complete text of Resolution No. 87-23 will be found in Resolution Book No. 16 at page 273.

CLAIMS - HOME FURNITURE (STREETS) - NELLIE STITT (PARKS) - UNITED AUTO SALES (STREETS) - MICHELE EVANS (POLICE)

The City Manager presented claims received from Home Furniture, Nellie Stitt, United Auto Sales and Michele Evans.

Mayor Bissette referred the claims to the Corporation Counsel for investigation and recommendation.

governmental entities relying on outlying communities for assistance in major fires. He said the Asheville Fire Department personnel did an excellent job in containing the fire to a small area.

Mayor Bissette thanked the agencies for their help and assistance and the Asheville Fire Department personnel for their professionalism in fighting this major fire.

Mayor Bissette read the resolution.

Upon motion of Vice-Mayor Frank, seconded by Councilman Tisdale, Resolution No. 87-24 was unanimously adopted.

Complete text of Resolution No. 87-24 will be found in Resolution Book No. 16 at page 274.

PUBLIC HEARING - ISSUANCE OF A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO BEAVER LAKE CAB COMPANY

4. A public hearing was held relative to the issuance of a Certificate of Public Convenience and Necessity to Beaver Lake Cab Company.

Mayor Bissette said this action will authorize the City Manager to issue a Certificate of Public Convenience and Necessity to Beaver Lake Cab Company pursuant to Section 24-34 of the Code of Ordinaces of the City of Asheville upon proof of financial responsibility in accordance with N. C. Gen. Stat Sec. 20-280 for the operation of three (3) additional cabs.

Mayor Bissette said this matter was discussed during the pre-Council work session and it was the consensus of Council to continue this public hearing for two weeks until a zoning issue relative to the location and operation of the taxi cab company is resolved.

Cecil Jackson, Attorney representing Mr. Paul Davis, petitioner for the Certificate of Public Convenience and Necessities, requested that the public hearing be postponed until a later date giving him an opportunity to review the problem with zoning in this particular area.

Verl Emrick, Director of Planning, presented a petition received from approximately 80 property owners in the area opposed to the Beaver Lake Cab Company operating on Woodrow Avenue in a residential neighborhood.

Councilman Michalove moved to continue the public hearing until February 24, 1987, without further advertisement. This motion was seconded by Councilman Tisdale and carried unanimously.

SITE PLAN OF THE CLOISTERS, CONDOMINIUMS AND PATIO HOMES - CARMELITE SITE ON FAIRWAY DRIVE

5. A public hearing was held relative to a site plan of The Cloisters (condominiums and patio homes), to be located on the Carmelite Site on Fairway Drive.

Tuesday - February 10, 1987 - 4:00 p.m.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Mary Lloyd Frank; Councilmen Walter R. Boland; Kenneth M. Michalove, Norma T. Price, and George M. Tisdale; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and City Clerk William F. Wolcott, Jr.

Absent: Councilman Wilhelmina Bratton

INVOCATION

The invocation was given by Vice-Mayor Mary Lloyd Frank.

APPROVAL OF THE MINUTES - FEBRUARY 3, 1987 MEETING

1. Consideration was given to the approval of the minutes of the February 3, 1987, meeting.

Mayor Bissette announced the approval of the minutes as submitted.

PROCLAMATION - FEBRUARY 8 - 14, 1987, "NATIONAL SALUTE TO HOSPITALIZED VETERANS WEEK"

2. Mayor Bissette read a proclamation proclaiming February 8 - 14, 1987, as "National Salute to Hospitalized Veterans Week".

Mayor Bissette presented the proclamation to Bob Dawson, Director of VA Hospital, and James Fox, Chief of Voluntary Services.

RESOLUTION NO. 87-24 - RESOLUTION OF APPRECIATION TO AREA FIRE AND RESCUE AGENCIES

3. Consideration was given to a resolution of appreciation to area fire and rescue agencies.

Mayor Bissette said during the morning of January 22, 1987, Asheville firefighters were confronted with a major fire in the Globe Furniture Store in downtown Asheville. This resolution is to express sincere appreciation to Skyland Fire Department, Beaverdam Fire Department, Asheville Area Rescue Squad and Buncombe County's Emergency Operations Service for their help and assistance with the fire and for their unselfish dedication to the people of our City and surrounding communities.

Mayor Bissette recognized Chief Robert Griffin of the Skyland Fire Department, Lieutenant Carl Thorpe with the Beaverdam Fire Department, and John McDaris with the Buncombe County Emergency Medical Operations Service.

Chief Rukavina of the Asheville Fire Department said he appreciated the assistance given by the Skyland Fire Department in providing an aerial ladder, the Beaverdam Fire Department for providing standby services, and the Buncombe County Emergency Medical Operations Services for being at the scene in case of an emergency. He said the Sluder Furniture Company also provided shelter and coffee for the firefighters. He said this was a perfect example of

Doyle Freeman, of 93 Ambler Road, Vice-President of the Board of Directors, Beverly Hills Homeowners Association, commented that several members of the homeowners association had attended the meeting the developer had arranged for the residents in the area. He said after reviewing the project the homeowners association supported the project. He requested that Council initiate a study by the Planning and Zoning Commission of the portion of the property now zoned O-I and requested that property be rezoned to R-2 Residential District.

Thomas Maynard, property owner in the area, asked questions relative to buffering. He also requested that Council amend the group development section of the zoning ordinance to require that setbacks of units in group developments be required. He said he felt buildings should be setback a minimum of 50' along Ambler Road and Gladstone Road.

Mary Henson, of 39 Ambler Road, asked questions relative to the breakaway gate to be placed on Carmelite Drive that would be closed and impassable to all but emergency vehicles during construction and after the complex is completed.

Bill Barley, of 68 Fairway Drive, also requested that Council initiate a rezoning of the O-I property to an R-2 Residential District designation. He said the purpose for this rezoning would be alleviate more intense development of the property that could be placed in the O-I district.

John C. Young, Jr., of 271 Fairway Road, spoke to members of Council relative to the traffic patterns in this area. He said he felt the project would create traffic congestion. He said, in his opinion, the exit and entrance to the project should be from Swannanoa River Road.

Mr. Jensen showed a diagram of the road indicating the traffic patterns in the area.

Mayor Bissette closed the public hearing at 5:45 p.m.

Councilman Price moved for the approval of the site plan of The Cloisters to be located on the Carmelite site on Fairway Drive subject to the conditions outlined by the Planning and Zoning Commission, with particular emphasis being placed that on the small access road connecting with Ambler Road be closed and impassable to all but emergency vehicles during construction and after the complex is completed; plantings around the property, and that the City staff be instructed to follow up on the traffic patterns in the area, particularly at the access onto Swannanoa River Road and the circular portion of Fairway Drive relative to safety factors in the area. This motion was seconded by Councilman Michalove and carried unanimously.

Councilman Price then moved that City Council initiate, through the Planning and Zoning Commission, a zoning study of the portion of the property now zoned O-I and that the property be considered for an R-2 Residential District designation. This motion was seconded by Vice-Mayor Frank and carried unanimously.

Mayor Bissette said the Asheville Planning and Zoning Commission at a meeting held January 14, 1987, reviewed a site plan of The Cloisters (condominiums and patio homes) to be located on the Carmelite site on Fairway Drive. The site plan was prepared by Jensen Engineering for Nappier and Gunnells Properties, Inc., Developer, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to approve the project subject to the following conditions: 1) compliance with Buffering Ordinance; 2) compliance with Erosion Control Ordinance; and 3) that the second entrance (Carmelite Drive into Ambler Road) be continually maintained for emergency use only and not used by the project.

Mayor Bissette opened the public hearing at 4:40 p.m.

The City Manager presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said this project was reviewed on two occasions by the Planning and Zoning Commission. He said the initial plans that were submitted consisted of 260 units of condominiums and patio homes. He said the initial plans were rejected by the Planning and Zoning Commission due to a topography problem which indicated that the density of the project should be reduced. He said the plans were resubmitted with the density reduced to 6.1 units which is in compliance with the R-2 Residential District. He said The Cloisters project now consists of 201 units, including 26 two-story condominium buildings with 6 units in each and 15 single-story patio home buildings with 3 units each.

By the use of a map, Mr. Emrick showed the location of the units on the property in question.

George Jensen, with Jensen Engineering, outlined the proposed project for members of Council. He said Nappier and Gunnells Properties, Inc. had just completed the Haywood Crossings project consisting of 70 units and has a good track record for developments in the City of Asheville. He outlined the details of The Cloisters project stating that the developer would refurbish the majority of the sewer lines in the area and a new water system would be installed. He said the developer would be preserving as many trees on the property as possible. He said grading would be within 20' of the property line. He said in order to comply with buffering requirements, white pine plantings would be placed around the project. He said the closest unit would be within 35' of the property line. He said the existing fence surrounding the property will be replaced with a 6' chainlink fence with a gate and lock accessing Carmelite Drive into Ambler Road to secure the property. He said this entrance would only be used for emergency vehicles. He said the only exit and entrance to the property will be Fairway Drive adjacent to the Bi Lo Shopping Center. He said all parking requirements will be in compliance with two spaces per unit. He said the complex will include two tennis courts, a swimming pool, a clubhouse, and a lot of green space. He said the condominiums will be priced in the neighborhood of $50,000 and the patio homes for sale for $60,000-80,000 and construction should begin in April.

Upon inquiry of members of Council, Mr. Jensen said the developer had attempted to meet with the Beverly Hills Homeowners Association; however, the residents had refused to meet with the developer.

HIGHLIGHTS: The City of the City of Asheville has decided to create an additional historic district for the City of Asheville. That district will be known as the Biltmore Village Historic District. The Montford Historic District is described and is regulated in Article 13 of Chapter 30 of the Code of Ordinances of the City of Asheville. The Chestnut-Liberty Historic District is described and is regulated in Article 14 of the Code of Ordinances. Since the provisions regulating the Districts should be identical, it would be more convenient to include all of the Districts in the same Article of the Code of Ordinances of the City of Asheville.

FISCAL IMPACT: None

Upon motion of Councilman Boland, seconded by Councilman Price, the Consent Agenda was unanimously approved.

REPORT RELATIVE TO ASHEVILLE CABLEVISION COMMISSION - COUNCILMAN TISDALE

7. Councilman Tisdale, Chairman of the Asheville Cablevision Commission, said during the Commission's meeting on February 9, it was reported that during 1986 a total of $110,537.13 was paid by Asheville Cablevision to the City of Asheville in franchise fees. He said this was an increase of $9,812.34 over 1985. He said Asheville Cablevision also paid Buncombe County $34,783.85 which was an increase over 1985 of $4,685.25. He said the Commission is continuing to meet a monthly basis and he was pleased with the construction and expansion of their services.

THOMAS MAYNARD - REQUEST FOR SETBACK REQUIREMENTS IN GROUP DEVELOPMENT

8. Thomas Maynard again requested that Council consider amending the Group Development Section of the Zoning Ordinance to provide for setback requirements.

After discussion, it was noted by members of Council that more detailed summaries be given to members of Council on actions taken by the Planning and Zoning Commission.

CLAIM - MICHELE EVANS (POLICE)

9. The City Manager presented a claim received from Michele Evans.

Mayor Bissette referred the claim to the Corporation Counsel for investigation and recommendation.

RALPH BISHOP - LOTTERY SALES

9. Ralph Bishop again spoke to members of Council relative to the lottery sales in the City of Asheville. He also spoke relative to the "gambling joint", Sister Sophia's, being moved from Biltmore Avenue into a church district.

ADJOURNMENT

Upon motion of Councilman Boland, seconded by Councilman Price, the meeting adjourned at 6:10 p.m.

Mayor

City Clerk

APPROVAL OF CONSENT AGENDA

6. Mayor Bissette said the following items are of a routine nature and they have been previously reviewed by the members of the City Council. Therefore, by unanimous vote to approve these items, the City Council may, pursuant to the procedures established in Ordinance No. 1008, adopt all of the items with one motion without the full reading and/or separate motion adopting each individual item. Upon the request of a citizen, a member of the City Council, and/or a member of the City staff, any single item scheduled for approval on the consent agenda may be considered separately.

RESOLUTION NO. 87-25

A. Resolution authorizing the City Manager of the City of Asheville to sign a commitment of site facility use for the nutrition program for Older Americans at certain recreation centers.

HIGHLIGHTS: This resolution will authorize the City Manager to sign a commitment of site facility use for the nutrition program for Older Americans at Reid Memorial Recreation Center Senior Opportunity and West Asheville Recreation Center.

FISCAL IMPACT: Councilman Tisdale noted that the only cost involved in the use of recreation centers for nutrition programs would be for janitorial services. He said it was his understanding that this particular program would not create the need for additional janitorial services in recreation centers.

Resolution No. 16 - page 275.

B. Motion to schedule a public hearing relative to the Head of Montford Redevelopment Plan for March 3, 1987.

HIGHLIGHTS: The Asheville Planning and Zoning Commission certified the area to be a Blighted Redevelopment Area under N.C.G.S. 160A-500-526 on November 12, 1986. The plan was prepared by the Head of Montford Planning Committee and staff of the City Planning Department and Asheville Housing Authority. The plan was approved by the Asheville Housing Authority on January 13, 1987, and by the Asheville Planning and Zoning Commission on January 14, 1987.

FISCAL IMPACT: Cost of the entire Head of Montford Redevelopment Project is estimated at $17,326,058.00. The City has committed $688,000.00 in CDBG Funds to the project to date.

C. Motion to schedule a public hearing relative to amending Article 13 of Chapter 30 of the Code of Ordinances of the City of Asheville to create the Biltmore Village Historic District and to include the Chestnut-Liberty Historic District for February 24, 1987.

Mayor Bissette said the Asheville Planning and Zoning Commission at a meeting held January 14, 1987, reviewed a site plan of Mountain View Condominiums to be located on Onteora Boulevard. The site plan was prepared by Dobson Engineering for Fairway Realty Company, Developer, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to approve the project subject to the following conditions: 1) compliance with Erosion Control Ordinance; 2) modify plan to provide for a minimum of 10' driveway extension to provide for backing out of the end parking spaces; 3) that developer seek approval of State in regard to the hydraulic calculations on the force main and ability of the gravity system to receive discharge; and 4) developer be required to comply with City's Buffering Ordinance with specific attention to the screening on Onteora Boulevard.

Mayor Bissette opened the public hearing at 4:18 p.m.

The City Clerk presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said the Planning and Zoning Commission reviewed and recommended approval of the Mountain View Condominiums to be located on Onteora Boulevard subject to several conditions. He said the Erosion Control Plans have been submitted to the State for approval; plans have been modified to provide for a minimum of a 10' driveway extension to provide for backing out of the end parking spaces; the State must approve the proposed water system; and the developer will be in compliance with the City's buffering ordinance by providing a 50' strip to be planted all around the project. He said the project will consist of 48 units in 12 buildings on 12 acres. He said two additional buildings are proposed for Phase II of the development. He said Phase II would require an additional public hearing and approval by Council. He said he had received necessary letters from government entities that water and sewer services are available and are adequate to service the project. He said during the review by Planning and Zoning the residents of the area expressed concern relative to the current and increased traffic congestion on Onteora Boulevard. He presented a letter from Mr. Putnam from the North Carolina Department of Transportation indicating that a traffic count was conducted on January 5, 1987 which showed 400 vehicles per day traveling Onteora Boulevard. He said according to the North Carolina Department of Transportation the proposed project would not place an undue burden on this particular street. He said it is estimated that with the construction of the 48 units two cars per unit would be added to the traffic on Onteora Boulevard. He said in order to comply with the Buffering Ordinance the developer is proposing to plant a tree every 40' on Onteora Boulevard.

Gary Pearson, representing Fairway Realty, developer, said the proposed project is located in the County but under the jurisdiction of the City since it is in the one mile extraterritorial jurisdiction. He said letters have been received from Steve Gentry, County Engineer, stating that water is available and is adequate to service the proposed project. He said he also has a letter from Bill Mull, from the Metropolitan Sewerage District, indicating that sewage facilities are adequate to service this project. He said all requirements of the group development ordinance have been met and all buffering requirements will be complied with by natural vegetation or planted landscaping.

Tuesday - February 17, 1987 - 4:00 p.m.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Mary Lloyd Frank; Councilmen Wilhelmina Bratton, Walter R. Boland; Kenneth M. Michalove, Norma T. Price, and George M. Tisdale; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: None

INVOCATION

The invocation was given by Councilman Wilhelmina Bratton.

APPROVAL OF THE MINUTES - FEBRUARY 10, 1987 MEETING

1. Consideration was given to the approval of the minutes of the February 10, 1987, meeting.

Mayor Bissette announced the approval of the minutes as submitted.

PROCLAMATION - FEBRUARY 23 - MARCH 1 - "SOUTHERN CONFERENCE BASKETBALL TOURNAMENT WEEK"

2. Mayor Bissette read a proclamation proclaiming February 23 through March 1 as "Southern Conference Basketball Tournament Week" in the City of Asheville.

Mayor Bissette presented the proclamation to Pat Smith, President of the Asheville Junior League, and Carolyn Moore, Chairman of the Southern Conference Junior League Committee.

RESOLUTION NO. 87-26 - RESOLUTION AUTHORIZING FREE PARKING AT METERED PARKING SPACES ON FEBRUARY 27, FEBRUARY 28, AND MARCH 1, 1987 FOR THE SOUTHERN CONFERENCE BASKETBALL TOURNAMENT

3. Consideration was given to a resolution authorizing free parking at metered parking spaces on February 27, February 28, and March 1, 1987 for the Southern Conference Basketball Tournament.

Mayor Bissette said this resolution will authorize free parking at all metered parking spaces on City streets and in City operated lots for the Southern Conference Basketball Tournament to be held February 27, February 28, and March 1, 1987.

Upon motion of Councilman Tisdale, seconded by Councilman Price, Resolution No. 87-26 was unanimously adopted.

Complete text of Resolution No. 87-26 will be found in Resolution Book No. 16 at page 276.

PUBLIC HEARING - SITE PLAN OF MOUNTAIN VIEW CONDOMINIUMS - ONTEORA BOULEVARD

4. A public hearing was held relative to a site plan of Mountain View Condominiums to be located on Onteora Boulevard.

a letter from John Teeter, Manager of Pepsi-Cola Bottling Company, stating that Mr. Teeter had received numerous complaints from his employees who live in Oakley relative to the traffic, water, and sewer conditions in Oakley and that Council should consider these problems prior to approving another development for the Oakley area. He said they were also concerned that children only have one sidewalk to use when walking home from school.

Bob Pugh, Route 9, Box 306, Onteora Blvd., said there are problems in the area with sewer and water facilities. He said the residents experience overflowing sewers and low water pressures. He said the residents in Oakley do not want nor does not need apartments or condominiums in their neighborhood.

W. B. Taylor, Route 9, Box 498, 299 Onteora Blvd., said the present sewer system has never been maintained and is continuously causing problems for area residents. He said he was also opposed to any condominiums being constructed in the Oakley area.

Jackie Jones, Route 9, Box 308, Onteora Blvd., said the present sewer line has never been maintained or increased even with many connections being made. She said these problems need to be looked into and corrected for the individuals currently living in the neighborhood. She said the traffic in the area is terrible and three children have already been struck by vehicles. She spoke in opposition to a project which would increase the problems now faced by the residents in Oakley.

Carolyn Winder, Route 9, Box 299, Onteora Blvd., spoke in opposition to the proposed project due to the traffic problems currently existing in the neighborhood. She said her and her husband own property adjoining the proposed project on the south. She said Oakley school is overcrowded and the water and sewer facilities are inadequate. She expressed concern about the impact the development's drainage would have on their pasture land. She said the proposed project will pose a new problem for the small watershed in their area which has a small stream that runs through the developer's property and her property. She said they plan to use their land for pasture, livestock, horticulture, a fish pond and irrigation, registered with the Agricultural Extension Office as "crop land". She said this land would be faced with serious sedimentation problems during and after construction of this project even if a sedimentation control plan is implemented. She said the storm water from the project would contain dangerous chemicals in residue that would be harmful to their land, livestock, and fish. She said Council should advert this hazard and determine that the site is not appropriate for this development or, as a minimum, the developers must isolate their stormwater discharge from their property by means of a storm sewer or concrete channel or a similar device. She said there must be a permanent safety detention system.

Lester H. Reed, Onteora Blvd., spoke in opposition to the proposed project due to the current traffic congestion in the area and the increased traffic this project would bring to this neighborhood.

Bob Frizell, Route 9, Box 315, Onteora Blvd., said the concerns expressed relative to traffic, sewer, water, and school problems should be listened to and considered prior to approval of this project.

Pastor G. A. McCurry, 260 Fairview Road, owner of property at Onteora Blvd. and School Road, said the community has serious sewage and traffic congestion problems from Biltmore all through Oakley. He said Oakley School is

Larry Kimel, attorney representing the homeowners in the area, spoke in opposition to the project stating that the Oakley area is a traditional older neighborhood and not a transient area. He said there are very few multiple family dwellings in the area and the residents feel that the construction of the condominiums will change the character of the neighborhood. He said the residents recently petitioned the City Council to rezone the property to a R-1 Residential designation. He said there is currently traffic congestion in the Oakley area and the traffic count taken by the North Carolina Department of Transportation was conducted near the proposed project site rather than near the Oakley School where traffic is very dangerous. He said the proposed project would increase the traffic in the area from 20 to 25 percent. He said Oakley has become a conduit to River Ridge Mall and to the Interstate. He said traffic is constantly congested during pre-school and after-school hours at Oakley School. He said the congestion is mainly on Onteora Boulevard, School Road, and Liberty Street.

Mr. Kimel said even though the Metropolitan Sewerage District has indicated that there are adequate facilities to service the project, homeowners in the area presently have overflowing sewers. He said the system was built in the 1920's and the residents have requested that the North Carolina Department of Natural Resources and Community Development investigate the problems with sewers in the Oakley area. He said the residents in the area also have problems with adequate water pressure. He said even though the property is not in the City limits the property would be annexed within the next ten years and would be under the City's fire protection. He said the City should review the existing water pressure in regards to fire protection for the area. He said Oakley School is presently overcrowded and cannot handle additional students that would be generated from the proposed project.

Mr. Kimel said City Council recently approved another 48 single family project in the Oakley area which will also add to the problems in the Oakley area. He said Council should look into all these factors before making a decision on approving another project. He said public funds would have to be used to bring all the facilities to adequate standards.

Mr. Kimel said Council should also ensure that the developer will live up to the high standards of erosion control since the adjoining property owners will experience problems from the proposed project.

Leonard Jones, Rt. 9, Box 308, Onteora Blvd., spoke in opposition to the project stating the residents major concern is increased traffic in the area since it is congested around Oakley School at Onteora Blvd. and School Rd. He said the traffic count taken by the North Carolina Department of Transportation should have been taken near the school rather than at the dead end of the road where the project is proposed. He also commented about a project Council had recently approved consisting of 48 single family type dwellings. He said it was his understanding that concerns were expressed at that time relative to the adequacy of the water and sewer facilities. He said Oakley School is overcrowded and cannot handle additional students. He said the present sewer facilities are inadequate and are currently overflowing. He said the North Carolina Department of Natural Resources has been requested to look into the deplorable sewer problems in the area. He showed members of Council photographs of sewer lines in the area that were overflowing. He read

10' driveway extension to provide for backing out of the end parking spaces; 3) that developers seek approval of the State in regard to the hydraulic calculations on the force main and the ability of the gravity system to receive discharge; 4) developer will be required to comply with the City's buffering ordinance with specific attention to the screening on Onteora Boulevard; 5) that engineering drawings relating to water be submitted and approved by the City staff; 6) that the local State agency provide an on site review and approval of the sewerage disposal system. This motion was seconded by Councilman Price.

Councilman Boland questioned the overcrowding of Oakley School as criteria in disapproving a group development project.

Councilman Tisdale said Oakley School was also crowded seven years ago, but this was a consideration of the Buncombe County Commissioners and not the City Council.

Corporation Counsel Slawter said, in his opinion, overcrowding of a school could not be used as criteria for disapproval of a project as the Group Development Ordinance does not set forth standards for schools but only deals with the public safety, health and welfare of the community. He said he felt if Council used the overcrowding of a school as criteria for the denial of a project this would create legal problems.

On a voice vote of 6-1, Councilman Michalove's motion passed on a voice vote of 6-1 with Councilman Bratton voting "no".

Vice-Mayor Frank requested a report from the Buncombe County School System on the condition of Oakley School as it relates to overcrowding and fire protection.

Councilman Tisdale requested that the individuals expressing concerns with their water and sewer facilities contact the Water and Sewer Department in order that their problems can be resolved.

Mayor Bissette told the residents that Council appreciated their attendance. He said the proposed plan meets all technical requirements and the Council has to abide by the statutes in approving such projects. He said City Council would be working toward eliminating the water and sewer problems in the community, and that if the State agency finds there are sewer problems existing in connection with the proposed project, the project would be halted.

RESOLUTION NO. 87-27 - RESOLUTION AUTHORIZING THE MAYOR ON BEHALF OF THE CITY OF ASHEVILLE TO EXECUTE A THIRD AMENDMENT TO THE MASTER AGREEMENT BY AND AMONG THE CITY OF ASHEVILLE, THE COUNTY OF BUNCOMBE, AND SCHNEIDER NINE, INC.

5. Consideration was given to a resolution authorizing the Mayor on behalf of the City of Asheville to execute a third amendment to the Master Agreement by and among the City of Asheville, the County of Buncombe, and Schneider Nine, Inc.

Mayor Bissette said the City of Asheville, the County of Buncombe and Schneider Nine, Inc., (whose interest has been assigned to Pack Plaza Associates Limited Partnership) entered into a Master Agreement dated March 16, 1984, which was later superceded by an Agreement dated August 15, 1984 (the

overcrowded and cannot handle additional students. He said a project of this nature with the existing problems will be detrimental for the Oakley neighborhood.

Bonson Ramsey, 159 Onteora Blvd., spoke in oppostion to the project siting existing sewer problems and traffic congestion.

Mrs. Bob Frizell, Route 9, Onteora Blvd., spoke in opposition to the project siting problems with existing sewer lines that should be corrected prior to the approval of this project.

James D. Lowlery, Oakley School Rd., also spoke relative to the existing sewer problems.

Lester Free, Floyd Drive, spoke to members of Council relative to low water problems.

Jackie Rice, Floyd Drive, spoke in opposition to the project siting problems with overflowing sewers.

A discussion was held relative to the adequacy of the sewer facilities in the proposed area. Mr. Dobson, with Dobson Engineering Company, read letters from Steve Gentry, County Engineer, and Bill Mull, with Metropolitan Sewerage District, indicating that water and sewer services would be adequate to service the project. Vice-Mayor Frank said the concerns expressed by the residents are individual concerns and deal with the lateral sewer lines rather than the main sewer line which would service this proposed project. She said the proposed project would be subject to compliance with the Erosion Control Ordinance which should address some of the concerns expressed by the residents.

Upon inquiry of Councilman Michalove, Clark Brown, Director of Public Works, gave a report as to the condition of Onteora Boulevard, stating that this road has an average width of 22'. Mr. Pearson, with Fairway Realty, said the project is designed primarily for married couples and retired individuals who would not have large families that have children in school. He said the proposed purchase price of the condominiums would be between $50,000 and $55,000.

Mr. Michalove said he felt the concerns and problems expressed by the residents are separate and apart from the facilities that the proposed project would be using.

Mr. Pearson again spoke to members of Council, requesting approval of the project, stating that the developer had complied with all the requirements of the Group Development Ordinance, the Buffering Ordinance, and the Erosion Control Ordinance. He said he felt this was a well-designed plan that would be an asset to the Oakley neighborhood.

Larry Kimel again appealed to members of Council to consider the serious problems expressed by the residents in relation to the approval of this project.

Mayor Bissette closed the public hearing at 6:10 p.m.

Councilman Michalove moved to approve the site plan of the Mountain View Condominiums to be located on Onteora Boulevard subject to 1) compliance with the Erosion Control Ordinance; 2) modify plan to provide for a minimum of

Mayor Bissette said the following items are of a routine nature and they have been previously reviewed by the members of the City Council. Therefore, by unanimous vote to approve these items, the City Council may, pursuant to the procedures established in Ordinance No. 1008, adopt all of the items with one motion without the full reading and/or separate motion adopting each individual item. Upon the request of a citizen, a member of the City Council, and/or a member of the City staff, any single item scheduled for approval on the consent agenda may be considered separately.

Resolution No. 87-29

A. **Resolution authorizing the Mayor to execute an amendment to the contract with the Asheville-Buncombe Community Relations Council.**

HIGHLIGHTS: The Community Relations Council has requested an additional $3,500 from the City to compensate for a delay in receiving a Fair Housing grant from HUD.

FISCAL IMPACT: Cost of $3,500 will be paid from existing Community Development Administration budget.

Resolution Book 16, page 279.

Resolution No. 87-30

B. **Resolution authorizing the City Manager to execute an agreement between the City of Asheville and Branch Banking and Trust Company (BB&T) for the purpose of participating in the Supplemental Retirement Income Plan of North Carolina.**

HIGHLIGHTS: The State of North Carolina has adopted the Supplemental Retirement Income Plan of North Carolina pursuant to which the State of North Carolina, its departments, agencies, and instrumentalities are authorized to provide a supplemental retirement income plan to conform with Section 401(k) of the Internal Revenue Code of 1954 as amended. The City of Asheville elects to participate in the Supplemental Retirement Income Plan of North Carolina for law enforcement officers and/or general employees. This resolution will allow the contributions through payroll deductions to the 401-K Plan.

FISCAL IMPACT: Approximately $2,000.00 Administration cost to modify payroll system. Also, State law requires 2% of salaries for police officers to be paid by the City effective July 1, 1987, and to be increased to 5% on July 1, 1988.

Resolution Book No. 16, page 280.

Resolution No. 87-31

C. **Resolution authorizing the Mayor to execute a supplemental agreement with the North Carolina Department of Transportation.**

HIGHLIGHTS: This supplemental agreement will provide for the installation of three (3) 22,000 lumen sodium vapor street

"Master Agreement"). The Master Agreement was clarified by an agreement dated December 18, 1984, and amended by two separate amendments dated September 18, 1986, and December 31, 1986. It is necessary to further amend certain provisions in the Master Agreement, specifically with regard to those terms and conditions pertaining to the Parking/Retail Garage Complex. This resolution will authorize the Mayor to sign the necessary third amendment to the Master Agreement by and among the City of Asheville, the County of Buncombe, and Schneider Nine, Inc. This amendment will provide that the City will purchase the Parking Garage property for $150,000.

Mayor Bissette said the resolution was previously presented to members of Council and it would not be read in its entirety. He said any individual requesting a copy of the resolution would be furnished one at no cost.

Upon motion of Councilman Michalove, seconded by Councilman Bratton, Resolution No. 87-27 was unanimously adopted.

Complete text of Resolution No. 87-27 will be found in Resolution Book No. 16 at page 277.

RESOLUTION NO. 87-28 - RESOLUTION DIRECTING THE CITY CLERK TO ADVERTISE AN OFFER FOR THE LEASE OF PROPERTY OWNED BY THE CITY OF ASHEVILLE AND KNOWN AS THE PROPERTY UNDERLYING THE PARKING/RETAIL GARAGE COMPLEX OF THE PACK PLAZA REDEVELOPMENT PROJECT

6. Consideration was given to a resolution directing the City Clerk to advertise an offer for the lease of property owned by the City of Asheville and known as the property underlying the parking/retail garage complex of the Pack Plaza Redevelopment Project.

Mayor Bissette said the City of Asheville has received an offer from Pack Plaza Associates Limited Partnership to lease the property underlying the proposed Parking/Retail Garage Complex of the Pack Plaza Redevelopment Project. The offer to lease the property is made upon certain terms and conditions set forth in a Ground Lease and includes specifically the condition that Pack Plaza Associates Limited Partnership construct and maintain the Parking/Retail Garage Complex upon the property. This resolution will direct the City Clerk to advertise a notice of the offer received from Pack Plaza Associates Limited Partnership to lease the property underlying the Parking/Retail Garage Complex of the Pack Plaza Redevelopment Project. This resolution will have no direct effect on the project, but will allow for the developer to construct a parking garage complex.

Mayor Bissette said members of Council were previously furnished copies of the resolution and it would not be read in its entirety. He said any individual requesting a copy would be furnished one at no cost.

Upon motion of Councilman Boland, seconded by Councilman Tisdale, Resolution No. 87-28 was unanimously adopted.

Complete text of Resolution No. 87-28 will be found in Resolution Book No. 16 at page 278.

APPROVAL OF CONSENT AGENDA

7. Consideration was given to a motion approving the Consent Agenda.

lights on the new Smith Bridge. The Department of Transportation has made provision for these lights in the design of the bridge, with the City being responsible for the monthly billing, once the lights are installed.

FISCAL IMPACT: The City is responsible for a one-time payment of $502.50 ($167.50 per light) to Carolina Power & Light Company for future maintenance of the lights, poles and wiring, as well as a monthly payment of $13.95 for electric service and pole rental. Funds are available in Account Code 10-426.0130, General Street Lighting, for these costs.

Resolution Book No. 16, page 281.

Upon motion of Councilman Michalove, seconded by Councilman Price, the consent agenda was unanimously adopted.

CLAIMS - LARRY BROWN (TRAFFIC ENGINEERING) - WILLIE CLEMMONS (PARKS) - WAYNE COULTER (STREETS) - JACK MCEWAN (SANITATION) - R. W. WAYCASTER (SEWER) - ANNE LAIRD (SEWER) - ALFREDA COOK (WATER)

8. The City Manager presented claims received from Larry Brown, Willie Clemmons, Wayne Coulter, Jack McEwan, R. W. Waycaster, Anne Laird, Alfreda Cook.

Mayor Bissette referred the claims to the Corporation Counsel for investigation and recommendation.

MATTHEW BACOATE - COMMENT RELATIVE TO BOARDS AND COMMISSIONS

9. Matthew Bacoate told members of Council the Black community has formed a committee which has been functioning for about six weeks and working positively toward assisting Council in appointing individuals to boards and commissions. He said City Council should be hearing from the committee within the next three days.

ADJOURNMENT

Upon motion of Councilman Bratton, seconded by Councilman Price, the meeting adjourned at 6:35 p.m.

Mayor

City Clerk

Mayor Bissette said the City Council of the City of Asheville has decided to create an additional historic district for the City of Asheville. That district will be known as the Biltmore Village Historic District. The Montford Historic District is described and is regulated in Article 13 of Chapter 30 of the Code of Ordinances of the City of Asheville. The Chestnut-Liberty Historic District is described and is regulated in Article 14 of the Code of Ordinances. Since the provisions regulating the districts should be identical, it would be more convenient to include all of the districts in the same Article of the Code of Ordinances of the City of Asheville.

Mayor Bissette opened the public hearing at 4:20 p.m.

The City Clerk presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said the Asheville Planning and Zoning Commission had reviewed the recommendation of the Historic Resources Commission that Biltmore Village be included as a historic district.

Carolyn Humphries, Interim Executive Director of the Historic Resources Commission, presented the proposal that Biltmore Village be established as a historic district. She said this was the oldest planned community in Asheville, being established in 1890. She said this area is frequented by visitors and tourists, and with the direct help of the property owners in the area, this area could continue as a historic district. She said the majority of the property is currently on the National Historic Register, and more than one-half of the property owners in the area had signed a petition requesting that the area be designated as historical. She said two letters had been received from Tops Petroleum, west side of All Souls Crescent, and George Cecil, north side of Vanderbilt Road, requesting that their property be excluded from the boundaries proposed for the historic district. She said the Historic Resources Commission does not recommend that these properties be excluded. By the use of a map, Mrs. Humphries showed the areas requested to be excluded.

Robert C. Brady, of the Biltmore Manor Nursing Home, endorsed the proposed historic district, but questioned the proposed boundaries to be included in the historic district. He said he felt the area should be grossly expanded to take in additional areas or the small businesses on the perimeter should be allowed to be excluded.

Tom Steitler, Chairman of the Historic Resources Commission, spoke in favor of the ordinance. He introduced members of the Historic Resources Commission in attendance at the meeting.

Bob Gray, property owner and merchant in the Biltmore Village area, John Simmons Shop, said the Biltmore Village Merchants Association had met today and strong opinions, pro and con, were expressed. He said the merchants would like to know the mechanics of the ordinance as to what would be involved in the creation of the historic district. He said the merchants would like to see the area improved without intrusions. He said he felt a committee made up of area businessmen to review any requests, for or against a change in the Biltmore Village, would be a workable approach. He said the merchants would not be in favor of the ordinance if the area could not be changed for individual businesses relative to landscaping plans, acceptable signage or continued improvements. He said the Merchants Association and the property owners in the area would be opposed to unreasonable rules and regulations.

Tuesday - February 24, 1987 - 4:00 p.m.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Mary Lloyd Frank; Councilmen Wilhelmina Bratton, Walter R. Boland; Kenneth M. Michalove, Norma T. Price, and George M. Tisdale; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: None

INVOCATION

Councilman Michalove introduced Major Taylor of the Salvation Army, who gave the invocation.

APPROVAL OF THE MINUTES - FEBRUARY 17, 1987 MEETING

1. Consideration was given to the approval of the minutes of the February 17, 1987, meeting.

Mayor Bissette said the minutes of the February 17, 1987, meeting were previously distributed to members of Council. He said questions had arisen from Oakley residents relative to their individual comments not being included in the minutes as it relates to the approval of the Mountain View Condominiums on Onteora Blvd. He said the Deputy City Clerk had been requested to summarize the individual comments made at that particular meeting, and the minutes would be considered at the March 3, 1987, meeting.

INTRODUCTION OF BOB YOUNG - SENATOR TERRY SANFORD'S OFFICE

Mayor Bissette introduced Bob Young, Representative from Senator Terry Sanford's office.

Mr. Young said Senator Sanford is pleased to locate his regional office in Asheville, which would be the contact office for 25 counties. He said this office would hear individual personal matters, as well as issues affecting the citizens of Western North Carolina and the surrounding counties. He said his office is willing to assist whenever possible on legislative issues. He said the office will be located in the main level of the Grove Arcade Building.

PROCLAMATION - FEBRUARY 22-28, 1987 - "NATIONAL RETAIL BAKERS WEEK"

2. Mayor Bissette read a proclamation proclaiming the week of February 22-28, 1987, as "National Retail Bakers Week."

Mayor Bissette presented the proclamation to Dotson Wright with the Rollin Pin Bakery.

PUBLIC HEARING - CREATION OF BILTMORE VILLAGE HISTORIC DISTRICT AND AMENDMENT TO ARTICLE 13, CHAPTER 30 OF THE CODE OF ORDINANCES TO INCLUDE THE CHESTNUT-LIBERTY HISTORIC DISTRICT

3. A public hearing was held relative to amending Article 13, Chapter 30 of the Code of Ordinances of the City of Asheville to create the Biltmore Village Historic District and to include the Chestnut-Liberty Historic District.

upon proof of financial responsibility in accordance with N.C. Gen. Stat. Sec. 20-280 for the operation of three (3) additional cabs. On February 10, 1987, this public hearing was continued until February 24, 1987, without further advertisement.

Mayor Bissette opened the public hearing at 5:10 p.m.

The City Clerk presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said as Council requested, an investigation was made of the history of zoning violations at the proposed location on Mt. Clare and Woodrow Avenue where the operation of the Taxicab Company is proposed. He said it was determined that a zoning violation was in operation at Mt. Clare and Woodrow Avenue, and that a letter was sent to Mr. Paul Davis on February 20, asking him to abate the zoning violation. He said it is his understanding that the taxicab operation has been moved to a site on Merrimon Avenue that is correctly zoned for a taxicab operation. He said no part of the taxicab operation can be conducted in a residential area or at the initial location on Mt. Clare and Woodrow Avenue. He said the Mt. Clare and Woodrow Avenue site, owned by Mr. Paul Davis, is established as a public facility and could only be used as a lot for storage of law enforcement agency vehicles and not as a commercial garage.

Cecil Jackson, Attorney representing Paul Davis, said the zoning violation had been abated, and the taxicab operation moved to a qualified location at 853½ Merrimon Avenue behind the Grace Restaurant. He said ample parking would be provided at this location with room for six taxicabs. He said Paul Davis had appeared before Council in September, 1986, requesting a Certificate of Public Convenience and Necessity for 12 taxicabs. He said at that time, affidavits from 10 persons were presented expressing a need for additional taxicabs in the City of Asheville. He said Mr. Davis desires to add three more cabs to his operation.

Susan Peterson, of 44 Woodrow Avenue, said she would be opposed to any commercial use at the Mt. Clare and Woodrow Avenue site, and would like to be assured that this site would not be used for the operation or maintenance of Paul Davis' taxicab company.

Gene Ellison, Attorney, said he was sure Mr. Davis would follow Council's decision on this particular request.

A discussion was held as to the location Mr. Davis would use for maintenance on his taxicabs.

Verl Emrick, Planning Director, said Mr. Davis would be unable to service his taxicabs at the Mt. Clare and Woodrow Avenue location.

Mayor Bissette reaffirmed Mr. Emrick's statement that Mr. Davis could not service his taxicabs at the Mt. Clare and Woodrow location; however, he said, Mr. Davis has the right to appeal that decision to the Board of Adjustments and to the Court systems.

Mayor Bissette closed the public hearing at 5:37 p.m.

Councilman Tisdale moved to approve Resolution No. 87-32 authorizing the issuance of a Certificate of Public Convenience and Necessity to Beaver Lake Cab Company for the operation of three additional taxicabs from 853½

Carolyn Humphries, responding to Mr. Gray, said guidelines would be drawn up by community leaders. She said public hearings were held in the Biltmore Village in 1983 and during the fall of 1986 relative to the designation of the Biltmore Village as a historic district. She said guidelines from the Department of Interior would be used in dealing with any proposed changes in the area.

Mayor Bissette indicated that it would be a good idea for the Historic Resources Commission to meet with the Biltmore Village Merchants Association to again go over the proposed ordinance.

Richard Grant, representing property occupied by the U.S. Post Office, said they did not receive notice of the proposed historic district until two days ago. He requested that this property be excluded since there is no historical significance in the land or the building and is on the edge of the proposed district.

Ralph Bishop spoke in opposition to the proposed ordinance.

Chip Gould, Case and Company of Hendersonville, requested that the Biltmore Gulf Station in the triangle be excluded. He said it would be very difficult to restore a service station into historical property.

Ward Hendon, Attorney representing Biltmore Dairy Farms, requested that the area owned by Biltmore Dairy Farms, being the entrance to Biltmore Forest, formerly Lot 44, Sheet 2, currently part of Lot 86, Sheet 3, be excluded from the proposed district.

June Grant said she would request that anyone who would like to be excluded from a historic district be allowed to be removed.

Jim Coleman, County staff on the Historic Resources Commission, spoke in favor of the proposed ordinance. He said the commercial service area in the Biltmore Village is viable for the historic district. He said the Historic Resources Commission needs to be allowed to say whether or not the removal of a commercial building would affect a historic district. He said he felt some sort of control, reasonably exercised, would be warranted.

After discussion, Councilman Michalove moved to continue the public hearing for one week without further advertisement giving members of Council an opportunity to look at the actual boundaries as proposed and the parcels that were requested to be excluded. This motion was seconded by Councilman Boland and carried unanimously.

PUBLIC HEARING - CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO BEAVER LAKE CAB COMPANY

RESOLUTION NO. 87-32 - RESOLUTION AUTHORIZING THE ISSUANCE OF A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO BEAVER LAKE CAB COMPANY

4. A public hearing was held relative to the issuance of a Certificate of Public Convenience and Necessity to Beaver Lake Cab Company.

Mayor Bissette said the City Manager will be authorized to issue a Certificate of Public Convenience and Necessity to Beaver Lake Cab Company pursuant to Section 27-34 of the Code of Ordinances of the City of Asheville

Complete text of Resolution No. 87-34 will be found in Resolution Book No. 16 at page 284.

C. Motion to schedule a public hearing relative to a resolution authorizing the filing of an application with the Department of Transportation, United States of America, for a grant under the Urban Mass Transportation Act of 1964, as amended for March 31, 1987.

HIGHLIGHTS: This resolution will authorize the Mayor to file an application with the U. S. Dept. of Transportation to aid in financing the operating assistance of the Asheville Transit Authority pursuant to Sec. 9 of the Urban Mass Transportation Act of 1964. The project will be for the period of July 1, 1987, through June 30, 1988.

FISCAL IMPACT: The estimated net project cost is $1,216,827.00. Federal share is estimated at $608,413. The City of Asheville's share is estimated at $608,414.00.

RESOLUTION NO. 87-35

D. Resolution appointing a member to the Asheville-Buncombe Community Relations Council.

HIGHLIGHTS: This resolution will appoint Edward R. Schell, 12 Linden Avenue, Asheville, N.C., 28801, as a member of the Asheville-Buncombe Community Relations Council for a term of three (3) years, term expiring December 31, 1989.

Complete text of Resolution No. 87-35 will be found in Resolution Book No. 16 at page 285.

Upon motion of Councilman Boland, seconded by Vice-Mayor Frank, the Consent Agenda was unanimously approved.

MOTION REMANDING THE SITE PLAN OF THE SUNSET POINTE CONDOMINIUMS TO THE PLANNING AND ZONING COMMISSION

6. Vice-Mayor Frank moved to remand the group development plan of the Sunset Pointe Condominiums to the Planning and Zoning Commission for further review and recommendation. This motion was seconded by Councilman Price and carried unanimously.

RESOLUTION NO. 87-36 - RESOLUTION APPOINTING MEMBER TO THE BOARD OF EXAMINERS OF MOTION PICTURE OPERATORS (WILLIAM P. SUDDERTH)

7. Consideration was given to a resolution appointing William P. Sudderth to the Board of Examiners of Motion Picture Operators for a two year term, term expiring July 1, 1989.

Upon motion of Councilman Price, seconded by Councilman Michalove, Resolution No. 87-36 was unanimously adopted.

Complete text of Resolution No. 87-36 will be found in Resolution Book No. 16 at page 286.

Merrimon Avenue or any other location which complies with the Asheville Zoning Ordinance. This motion was seconded by Councilman Michalove and carried unanimously.

Complete text of Resolution No. 87-32 will be found in Resolution Book No. 16 at page 282.

APPROVAL OF THE CONSENT AGENDA

5. Consideration was given to a motion approving the Consent Agenda.

Mayor Bissette said the following items are of a routine nature, and they have been previously reviewed by the members of the City Council. Therefore, by unanimous vote to approve these items, the City Council may, pursuant to the procedures established in Ordinance No. 1008, adopt all of the items with one motion without the full reading and/or separate motion adopting each individual item. Upon the request of a citizen, a member of the City Council, and/or a member of the City staff, any single item scheduled for approval on the consent agenda may be considered separately.

RESOLUTION NO. 87-33

A. Resolution authorizing the Mayor to execute on behalf of the City of Asheville a Memorandum of Agreement for Community Development activities in the Montford Historic District.

HIGHLIGHTS: Funding for the Hill Street/Cherry Street (Montford) Community Redevelopment project includes Community Development Block Grant funds from the U.S. Department of Housing and Urban Development. The Montford Community is located within a Historic District which is listed in the National Register of Historic Places. As a result, activities undertaken in this district are subject to consultation by the State Historic Preservation under Section 106 of the National Historic Preservation Act of 1966. The Memorandum of Agreement identifies the mitigation and review requirements necessary prior to implementation of the Community Development activities proposed in the Montford neighborhood.

FISCAL IMPACT: Any cost will be borne by existing Community Development Administration and Historic Resources Commission operating funds.

Complete text of Resolution No. 87-33 will be found in Resolution Book No. 16 at page 283.

RESOLUTION NO. 87-34

B. Resolution authorizing the Purchasing Director to dispose of two (2) water storage tanks by sealed bids.

HIGHLIGHTS: The Water and Sewer Services Department has declared as surplus two (2) 30,000 gallon steel water storage tanks. The Director of the Water and Sewer Services Department has requested that these tanks be disposed of.

FISCAL IMPACT: Sale should produce approximately $7,000 to $10,000 in revenues.

Tuesday - March 3, 1987 - 4:00 p.m.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Mary Lloyd Frank; Councilmen Wilhelmina Bratton, Walter E. Boland; Kenneth M. Michalove, Norma T. Price, and George M. Tisdale; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: None

INVOCATION

The invocation was given by Rev. Tony Clarke-Sayer.

APPROVAL OF THE MINUTES - FEBRUARY 17, 1987 AND FEBRUARY 24, 1987 MEETINGS

1. Consideration was given to the approval of the minutes of the February 17, 1987 and February 24, 1987 meetings.

Mayor Bissette announced the approval of the minutes as submitted.

PROCLAMATION - MARCH 2-8, 1987 - "HI NEIGHBOR VOLLEYBALL WEEK"

2. Mayor Bissette read a proclamation proclaiming March 2-8, 1987 as "Hi Neighbor Volleyball Week" in the City of Asheville.

Mayor Bissette presented the proclamation to Ray Kisiah and Donnie Luke with the Asheville Volleyball Club.

PROCLAMATION - MARCH, 1987 - "YOUTH ART MONTH"

3. Mayor Bissette read a proclamation proclaiming March, 1987 as "Youth Art Month" in the City of Asheville.

Mayor Bissette presented the proclamation to Gail Roberts, Art Teacher at Aycock School.

PUBLIC HEARING - AUTHORIZING FILING OF GRANT AMENDMENT UNDER THE URBAN MASS TRANSPORTATION ACT OF 1964 AS AMENDED

4. A public hearing was held relative to the filing of a grant amendment with the Department of Transportation, United States of America, under the Urban Mass Transportation Act of 1964, as amended.

Mayor Bissette opened the public hearing at 4:25 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

RALPH BISHOP - COMMENTS RELATIVE TO LOTTERY SALES IN THE CITY OF ASHEVILLE

Ralph Bishop spoke to members of Council relative to the lottery sales in the City of Asheville.

CLAIMS - ALFREDA COOK (WATER) - PAUL SAUZA (WATER) - KEVIN HORRELL (SEWER) - ELLEN FORD (STREETS)

The City Manager presented claims received from Alfreda Cook, Paul Sauza, Kevin Horrell, and Ellen Ford.

Mayor Bissette referred the claims to the Corporation Counsel for investigation and recommendation.

ANNOUNCEMENT OF CHARLES PENNEY - ASSISTANT CITY MANAGER

City Manager Doug Bean announced the appointment of Charles Penney as Asheville's new Assistant City Manager.

Mr. Bean said Mr. Penney is currently serving as Assistant City Manager for the City of Kinston, N.C., and that he will assume his duties in Ashevill some time in April.

ADJOURNMENT

Upon motion of Councilman Boland, seconded by Councilman Tisdale, the meeting adjourned at 5:50 p.m.

Mayor

City Clerk

On a roll call vote of 7-0, Ordinance No. 1633 passed on first and final reading.

Complete text of Ordinance No. 1633 will be found in Ordinance Book No. 11 at Page 109.

PUBLIC HEARING - HEAD OF MONTFORD REDEVELOPMENT PLAN

8. A public hearing was held relative to the Head of Montford Redevelopment Plan.

Mayor Bissette opened the public hearing at 4:34 p.m.

Mayor Bissette said the Asheville Planning and Zoning Commission certified the area to be a Blighted Redevelopment Area under N.C.G.S. 160A-500-526 on November 12, 1986. The plan was prepared by the Head of Montford Planning Committee and staff of the City Planning Department and Asheville Housing Authority. The plan was approved by the Asheville Housing Authority on January 13, 1987, and by the Asheville Planning and Zoning Commission on January 14, 1987. He said the cost of the entire Head of Montford Redevelopment Project is estimated at $17,326,058.00. The City has committed $688,000.00 in CDBG Funds to the project to date.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Julia Cogburn, with the Planning Department, said the redevelopment plan for the Head of Montford is the result of a two-year process which began with the Head of Montford Planning Forum, and the subsequent appropriation by Council of Community Development Block Grant Funds for redevelopment in the area. She said the plan has been prepared by the Head of Montford Planning Committee, a Committee of 14 individuals, a representative cross-section of the broader Montford community, which has worked many hours in conjunction with City and Housing Authority officials to produce the plan. She said the plan contains overall goals as follows: 1) Preserving the neighborhood's distinctive diversity to changing and upgrading the image of the neighborhood; 2) encouraging limited commercial development in the Hill Street/Cherry Street area; 3) improving and expanding the housing stock of the neighborhood yet avoiding an exodus of low income people from the neighborhood; 4) preserving the neighborhood's distinctive historic character; 5) providing improved landscaping, lighting and other amenities; 6) upgrading infrastructure as required; and 7) eliminating litter and dumping, wreckless driving, noise pollution, and public criminal behavior that threaten the safety of community residents and diminish their quality of life. She said as authorized in the North Carolina General Statutes, the project area was certified by the Asheville Planning and Zoning Commission to be a blighted redevelopment area which was adopted and approved by the Housing Authority of the City of Asheville, and was recommended to Council for approval by the Planning and Zoning Commission.

Julia Cogburn said the area addressed in the plan is known as the Head of Montford or Hill Street/Cherry Street area, but is also "Census Tract 2" in Asheville's U. S. Census Program. She said it is an approximately 300

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Carl Ownbey, with the Asheville Transit Authority, said in December, 1986 the Asheville Transit Authority accepted bids approved by grant NC-90-X046. The bids received were well over the budgeted amount but were comparable to bids received in recent years. This amendment will authorize the Mayor to file a grant amendment application to increase the capital funding from $962,000 to $1,032,000. The federal share will be $825,600. The state share will be $103,200, and the local share $103,200. This funding will allow the Asheville Transit Authority to purchase the radios and construct the parts room as originally proposed. A public hearing is required pursuant to UMTA regulations. He said this additional funding, if approved, will increase the capital funding from $962,000 to $1,032,000. The federal share will be $825,600; the state share will be $103,200, and the local share will be $103,200.

Mayor Bissette closed the public hearing at 4:28 p.m.

RESOLUTION NO. 87-37 - RESOLUTION AUTHORIZING THE FILING OF A GRANT AMENDMENT WITH THE NC DEPARTMENT OF TRANSPORTATION, UNITED STATES OF AMERICA, UNDER THE URBAN MASS TRANSPORTATION ACT OF 1964, AS AMENDED

5. Carl Ownbey, with the Asheville Transit Authority, said this resolution would authorize the filing of the grant amendment for the federal share which would increase the federal funding from $769,600 to $825,600.

Upon motion of Councilman Boland, seconded by Councilman Price, Resolution No. 87-37 was unanimously adopted.

Complete text of Resolution No. 87-37 will be found in Resolution Book No. 16 at Page 287.

RESOLUTION NO. 87-38 - RESOLUTION AUTHORIZING THE FILING OF A GRANT AMENDMENT WITH THE NC DEPARTMENT OF TRANSPORTATION FOR ADDITIONAL CAPITAL IMPROVEMENT FUNDS

6. Carl Ownbey, with the Asheville Transit Authority, said this resolution would authorize the filing of a grant amendment for the state share funding which would be increased from $96,200 to $103,200.

Upon motion of Councilman Price, seconded by Councilman Boland, Resolution No. 87-38 was unanimously adopted.

Complete text of Resolution No. 87-38 will be found in Resolution Book No. 16 at Page 288.

ORDINANCE NO. 1633 - BUDGET ORDINANCE AMENDMENT INCREASING THE UMTA CAPITAL GRANT FUNDING

7. Carl Ownbey, with the Asheville Transit Authority, said this budget amendment would increase the UMTA capital grant allocation by $70,000.

Councilman Price moved for the adoption of Ordinance No. 1633. This motion was seconded by Councilman Boland.

acquisition of 262 parcels, and two parts of parcels to be acquired by the Housing Authority. She said the acquisition parcels were included because they were either vacant lots or Buncombe County tax lots, and are parcels that may need to be acquired in order to carry out the commercial, residential, or parkway development section of the plan. She said administration of the plan will be carried out by the Housing Authority as the City's redevelopment agency.

Upon inquiry of Councilman Bratton, Julia Cogburn said churches in the area would not be exempt or excluded from the proposed plan. She said the Hill Street Baptist Church would be included in the redevelopment plan, and would be required to meet all guidelines.

Councilman Boland noted that the plan would maintain and enhance the integrity of the existing neighborhood.

Richard Will of Fletcher, North Carolina, requested a building/ownership survey of properties in the Montford area, particularly for investment purposes.

Tony Clarke-Sayre of 30 Blake Street, and Chairman of the Montford Planning Committee, spoke in support of the redevelopment plan. He said there are many properties in the Montford area that are going downhill due to the lack of resources to renovate. He said this plan also gives an opportunity to turn 55 acres of vacant land into creative multi-family properties. He requested Council's adoption and implementation of the proposed plan.

Jim Cairnes of 209 Cumberland Avenue, President of the Montford Community Club, urged Council's support in adoption of the plan. He said he felt the City's support in providing Community Development Block Grant funding will also attract private investments.

Scott Dedman, Community Educator at Pisgah Legal Services, 89 Montford Avenue, spoke in favor of the plan. He said he was pleased with the major efforts in the plan for housing rehabilitation for low income and elderly residents which is seriously needed in the neighborhood. He said he felt the proposed commercial neighborhood zone would be very helpful to area residents.

June Grant, Real Estate Agent, said the proposed rezoning of the property in the Montford area is "down" zoning. She questioned whether or not the residents would be compensated for property values lost in the "down" zoning. She asked if the normal procedures such as advertising, posting of properties, and public hearings would be held prior to the rezoning.

Mayor Bissette informed Ms. Grant that all normal proceedings would take place prior to the rezoning of the properties.

Dorothy Arrowood of 126 Vance Crescent Street asked if more of the $17,000,000 allocated for street and sidewalk improvements during the bond issue would be used in the Montford area in proportion to other areas of the City. She said she objected to tax money being absorbed for an urban renewal area.

acre area located immediately north-west of the Asheville Central Business District, and is generally bounded by I-240 on the south, the French Broad River on the west, Riverside Cemetery, Birch Street and Chestnut Street on the north, and Broadway on the east. She highlighted the existing conditions in the area, including the topography, soils, structural housing conditions, street, sidewalk, water and sewer, and storm drainage conditions, social and economic indicators, existing zoning and land use, and a description of historic buildings in the area. She said according to a survey taken by the Building Inspections Division relative to the housing stock in the area, a total of 468 privately owned residential structures in "Census Tract No. 2," 33 or 7% are in standard condition, 336 or 71.8% are substandard, and 99 or 21.2% are considered severely substandard.

She said the proposed planned use for the redevelopment area includes neighborhood commercial areas, park and greenway areas, office institutional areas, and a light industrial area, and residential areas of varying densities. She said existing City and Housing Authority controls will be applied throughout the project. These controls include but are not limited to the Asheville Zoning Ordinance, group development and subdivision regulations, building codes, historic resources guidelines for the Montford Historic District, Department of Housing and Urban Development Secretary's Standards for rehabilitation of historic properties, and the Department of Interior Secretary's Standards for historic buildings and other applicable regulations. She said there are a few proposed zoning changes for the area in order to carry out the goals of the plan. She said most of the changes involve proposed rezonings, using existing districts under the City of Asheville Zoning Ordinance. She said it is further proposed that a new use district be created and added to the City of Asheville's Zoning Ordinance being Neighborhood Commercial District. She said it is also proposed that the boundaries of the local Montford Historic District be expanded to cover the entire redevelopment area with the exception of the Hillcrest Apartment area and the area west of 19-23 Highway. She said local Historic Resources Commission guidelines for the Montford community would apply within this expanded area.

She said the redevelopment plan consist of renewal activities including land acquisitions, relocation and demolition of structures on a very limited basis, infrastructure improvements, parks and greenway development, the encouragement of infill housing, selected multi-family and commercial development, and a heavy emphasis on restoration and rehabilitation of existing dwelling units. She said it is proposed that all water, sewer, storm drainage, and street and sidewalk inadequacies identified as existing conditions be addressed to correct all the inadequacies. She said it is also recommended that additional parkways be created along the French Broad River and Broadway, and that a new park be created with appropriate pathways, lighting, landscaping, and if feasible, a small lake be developed as part of the park. She said the plan proposes that a new housing development be encouraged in certain areas of the Head of Montford neighborhood. She said these areas would include Morrow Street, Jersey Street area, and an area at the southern portion of Flint Street. She said it also encourages the development of a neighborhood commercial facility at the southern most end of Montford Avenue, and that infill housing development be encouraged throughout the area. She said the plan provides for the

be a complicated process, and Council should have a clear understanding before adoption of such a plan. He said when plans of this nature are adopted, citizens seem to get apprehensive that the City is making a commitment toward every specific goal in the plan. This motion was seconded by Councilman Price.

Vice-Mayor Frank said since this project would be a slow gradual process, questions will continue to arise for many years. She said she could not support the motion to delay any action for the Montford area.

Councilman Boland said he would like to see substantial progress made in the Montford area since the area needs attention as soon as possible.

At the request of Mayor Bissette, Larry Holt explained the procedures for revisions and amendments. He said specific goals would be decided on annually, depending on funds available. He said in order to amend or revise the plan, it would require citizen imput and public hearings by the Housing Authority and City Council. He said the process to amend the plan is the same as to adopt the plan initially. He said the plan is long-term and there would probably be many changes before completion.

Councilman Tisdale said he did not feel further delays would be helpful, and that Council should go ahead with the adoption of the plan and make amendments in the future.

Dorothy Arrowood, of 126 Vance Crescent, said historic districts such as the Montford Historic District causes many property owners not to repair or restore their homes because of burdensome restrictions.

Upon inquiry of Councilman Price, Mr. Holt said federal rehabilitation guidelines are particularly strict on exterior dwellings but not so much on interior.

Upon inquiry of Mayor Bissette, Corportion Counsel Slawter quoted from the North Carolina General Statutes procedures that are required in amending a redevelopment plan.

On a voice vote of 6-1, Councilman Michalove's motion to continue the public hearing for two weeks failed.

Councilman Michalove asked questions relative to the specifics of the plan, particularly on the procedures to amend the plan in the future. He said he felt this creates very poor public relations when Council adopts a plan and changes or amends the plan in future years. He said he had previously asked for a report about the success and/or failures of the Montford Historic District and has not received that to date.

Councilman Tisdale moved that Council adjourn to executive session to discuss legal problems relative to the redevelopment plan. This motion was seconded by Vice-Mayor Frank and carried unanimously.

After reconvening, Mayor Bissette announced that there were some legal problems that need to be reviewed by the City Attorney and the Housing Authority attorney before the adoption of the plan.

Chris Peterson requested a breakdown of funding for the proposed plan. He objected to housing corporations being involved in the redevelopment plan or taxpayers having to pay the $17,000,000.

Julia Cogburn responded that funding principally would come from Community Development Block Grant, housing rehabilitation, and other grant funds, as well as private funding. She said there were no corporations involved in the redevelopment plan at this time.

Councilman Boland, responding to Mr. Peterson, said funding options for the project are still being explored. He said the City is not committing the $17,000,000 for the project by adoption of this plan. He said that is only a projected cost of implementing the overall goals. He said, in his opinion, the plan is directed in a way to prevent dislocation of families or businesses. He said the plan would have to be administered in a gradual, reasonable manner.

Councilman Price, also responding to Mr. Peterson, said this plan is similiar to the East End/Valley Street and East Riverside Urban Redevelopment area. She said this particular area is the next target area for the use of Community Development Block Grant Funds where needs are the greatest based on Federal guidelines.

Councilman Price reaffirmed that the proposed plan would take many years to implement.

Councilman Michalove said he was uncomfortable with the plan at this time since members of Council have not had ample opportunity to review the entire plan. He questioned procedures for future amendments.

Larry Holt, Deputy Executive Director of the Asheville Housing Authority, said provisions are included in the plan setting out procedures for amendments or revisions. He said the procedures for these revisions would require approval from the neighborhood residents, the Housing Authority, and the Asheville City Council.

Councilman Michalove said he would like to postpone action on this plan for at least one week, and would recommend that the Chairman of the Montford Planning Committee, a representative of the School Board, the Planning and Zoning Commission, the Recreation Advisory Board, the Montford Recreation Center, and the Historic Resources Commission meet with several members of Council in order to have a clearer understanding of how each board or commission involved in the plan views the specifics of the plan. He also commented that, to date, the City or the Montford Community Club does not have a housing corporation and it was his understanding that it would take about one year to begin a housing corporation for this area.

After discussion, Councilman Michalove moved to continue the public hearing without further advertisement for two weeks, giving the Council an opportunity to establish a group to meet with Council and get a better understanding on the redevelopment plan. He further stated that the group should consist of appropriate board and commission members that would be needed to implement the plan. He further stated that amending the plan would

Orange Street, Ward 2, Sheet 4, Lot 112 1/2, and this property is located on a street two blocks long with other parcels excluded. She said her request should not upset the pattern of Orange Street. She also presented a letter from John Carroll Associates requesting that 50 Orange Street be removed from the Chestnut-Liberty Historic District.

June Grant said during consideration of the Chestnut-Liberty Historic District, Council excluded the Highland Hospital property. She said all property owners who do not wish to be in a historic district should be allowed to be excluded. She presented a letter from Pearlie Brank of 20 Claxton Place, and Molly Wiebenson of 18 Claxton Place who requested to be excluded from the Chestnut-Liberty Historic District. She said Council's constant actions on properties is placing a hardship on realtors in selling real estate.

Betty Lawrence of 142 Hillside Street spoke in support of the ordinance to create the Biltmore Village Historic District as recommended by the Historic Resources Commission.

Chris Peterson, of 218 East Chestnut Street, also requested that his property be excluded from the Chestnut-Liberty Historic District.

Dorothy Arrowood presented a request from Helen McDaris of Merrimon Place who requested to be excluded from the Chestnut-Liberty Historic District.

Mayor Bissette closed the public hearing at 7:20 p.m.

Mayor Bissette said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety. He said any individual requesting a copy of the ordinance will be furnished one at no cost.

Vice-Mayor Frank moved for the adoption of Ordinance No. 1634. This motion was seconded by Councilman Bratton.

Councilman Michalove again stated that he did not think the boundaries in the proposed Biltmore Village Historic District were consistent. Councilman Boland agreed.

On a roll call vote of 5-2, Ordinance No. 1634 passed on first reading with Councilman Boland and Councilman Michalove voting "no".

Mayor Bissette said the second reading of Ordinance No. 1634 will be held at the March 10, 1987 meeting.

Bob Gray, property owner and merchant in the Biltmore Village area, spoke in support of the ordinance stating that there were varying opinions from all merchants in the Biltmore Village area. He said it was easy for the merchants to see the advantages of the same theme being carried throughout the village. He said it is his understanding that a committee would be formed with property owners in the Biltmore Village allowed to determine the destiny of the village.

Councilman Tisdale moved to continue the public hearing for two weeks without further advertisement, giving the attorneys an opportunity to study possible legal problems involving the language of the plan. This motion was seconded by Vice-Mayor Frank and carried unanimously.

PUBLIC HEARING - AMENDING ARTICLE 13 OF CHAPTER 30 RELATIVE TO CREATING THE BILTMORE VILLAGE HISTORIC DISTRICT AND INCLUDING THE CHESTNUT-LIBERTY HISTORIC DISTRICT

ORDINANCE NO. 1624 - AN ORDINANCE AMENDING ARTICLE 13 OF CHAPTER 30 OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE TO CREATE THE BILTMORE VILLAGE HISTORIC DISTRICT AND TO INCLUDE THE CHESTNUT-LIBERTY HISTORIC DISTRICT

9. A public hearing relative to amending Article 13 of Chapter 30 of the Code of Ordinances of the City of Asheville to create the Biltmore Village Historic District and to include the Chestnut-Liberty Historic District continued.

Mayor Bissette said the City Council of the City of Asheville has decided to create an additional historic district for the City of Asheville. That district will be known as the Biltmore Village Historic District. The Montford Historic District is described and is regulated in Article 13 of Chapter 30 of the Code of Ordinances of the City of Asheville. The Chestnut-Liberty Historic District is described and is regulated in Article 14 of the Code of Ordinances. Since the provisions regulating the Districts should be identical, it would be more convenient to include all of the districts in the same Article of the Code of Ordinances of the City of Asheville. This public hearing was continued from the February 24, 1987 meeting.

Mayor Bissette reopened the public hearing at 7:02 p.m.

Verl Emrick, Director of Planning, presented a map showing the difference between the National Historic District and the proposed Local Historic District. He also presented a map showing the location of the properties requested to be excluded from the Local Historic District.

Councilman Michalove said he had visited the proposed Local Historic District area and felt there were inconsistencies by the Historic Resource Commission in dealing with historic areas. He pointed out on the map what he felt to be inconsistencies.

Councilman Boland agreed with Councilman Michalove that the area proposed should be amended to delete properties such as the Tops Service Station, and other areas to the west of Hendersonville Road because they have no historic significance.

Vice-Mayor Frank said these outlying parcels are contributing areas, and the issue is not so much as how they look today but how they may look tomorrow when they are recycled.

Ann Cross, of Orange Street, said she had previously requested that her property be removed from the Chestnut-Liberty Historic District, and would like to reaffirm her request. She said her property is located at 18

RESOLUTION NO. 87-41

C. Consideration of a resolution authorizing the City Manager to execute on behalf of the City of Asheville a Ground Lease by and between the City of Asheville and Pack Plaza Associates Limited Partnership for the Parking/Retail Garage Complex of the Pack Plaza Redevelopment Project.

HIGHLIGHTS: The City of Asheville received an offer from Pack Plaza Associates Limited Partnership to lease the property underlying the proposed Parking/Retail Garage Complex of the Pack Plaza Redevelopment Project described in the Notice of Intent and in that agreement known as the Master Agreement dated August 15, 1984. The offer to lease the property was made upon certain terms and conditions set forth in the Ground Lease and included specifically the condition that Pack Plaza Associates Limited Partnership construct the Parking/Retail Garage Complex upon the property and maintain the Parking/Retail Garage Complex.

FISCAL IMPACT: The third amendment to the Master Agreement by and between the City of Asheville and Pack Plaza Associates Limited Partnership provided that the City purchase the property underlying the Parking/Retail Garage Complex for $150,000. In addition, it provided that the City would lease the property to Pack Plaza Associates Limited Partnership and require that the Partnership construct the Parking Garage on that property. The cost to construct the Parking Garage Complex is included in the Pack Plaza Redevelopment Project budget.

Resolution Book 16 Page 292

Upon motion of Councilman Tisdale, seconded by Councilman Michalove, the Consent Agenda was unanimously adopted approved.

CLAIMS - BOBBY DYKES (SEWER) - DAN FREEMAN (WATER)

10. The City Manager presented claims received from Bobby Dykes (Sewer) and Dan Freeman (Water).

Mayor Bissette referred the claims to the Corporation Counsel for investigation and recommendation.

APPROVAL OF THE CONSENT AGENDA

10. Consideration was given to the approval of the consent agenda.

Mayor Bissette said the following items are of a routine nature and they have been previously reviewed by the members of the City Council. Therefore, by unanimous vote to approve these items, the City Council may, pursuant to the procedures established in Ordinance No. 1008, adopt all of the items with one motion without the full reading and/or separate motion adopting each individual item. Upon the request of a citizen, a member of the City Council, and/or a member of the City staff, any single item scheduled for approval on the consent agenda may be considered separately.

RESOLUTION NO. 87-39

A. Consideration of a resolution adopting a policy for mutual assistance with other law enforcement agencies.

HIGHLIGHTS: This resolution will authorize the Chief of Police to enter into mutual assistance arrangements with other municipal and county law enforcement agencies.

FISCAL IMPACT: None

Resolution Book No. 16 page 289.

RESOLUTION NO. 87-40

B. Consideration of a Resolution of Intent to close George Washington Carver Avenue, Haid Street, Gully Street, portions of Max Street, Knob Street and Grail Street and an unnamed alley and scheduling a public hearing for April 7, 1987.

HIGHLIGHTS: A petition has been filed by The Housing Authority of the City of Asheville requesting that certain streets and a public alley be permanently closed to public use. The streets and public alley are under the sole and exclusive authority and control of the City of Asheville and are not under the authority and control of the North Carolina Department of Transportation. The permanent closing of these streets and public alley would not be either detrimental to or contrary to the public interest or the property rights of any individual. By permanent closing of these streets and public alley, no individual owning property in the vicinity would be deprived of ingress and egress to his property.

Resolution Book 16 page 290

Tuesday - March 10, 1987 - 4:00 p.m.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Mary Lloyd Frank; Councilmen Wilhelmina Bratton, Walter R. Boland; Kenneth M. Michalove, Norma T. Price, and George M. Tisdale; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: None

INVOCATION

The invocation was given by Councilman Walter Boland.

APPROVAL OF THE MINUTES - MARCH 3, 1987 MEETING

1. Consideration was given to the approval of the minutes of the March 3, 1987, meeting.

Mayor Bissette noted that Councilman Michalove had requested several additions to the minutes which had been submitted to the Deputy City Clerk.

Mayor Bissette announced the approval of the minutes as amended.

ORDINANCE NO. 1634 - AN ORDINANCE AMENDING ARTICLE 13 OF CHAPTER 30 OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE TO CREATE THE BILTMORE VILLAGE HISTORIC DISTRICT AND TO INCLUDE THE CHESTNUT-LIBERTY HISTORIC DISTRICT

2. Consideration was given to the second reading of Ordinance No. 1634, an ordinance relative to amending Article 13 of Chapter 30 of the Code of Ordinances of the City of Asheville to create the Biltmore Village Historic District and to include the Chestnut-Liberty Historic District.

Mayor Bissette said the City Council of the City of Asheville has decided to create an additional historic district for the City of Asheville. That district will be known as the Biltmore Village Historic District. The Montford Historic District is described and is regulated in Article 13 of Chapter 30 of the Code of Ordinances of the City of Asheville. The Chestnut-Liberty Historic District is described and is regulated in Article 14 of the Code of Ordinances. Since the provisions regulating the Districts should be identical, it would be more convenient to include all of the Districts in the same Article of the Code of Ordinances of the City of Asheville. This public hearing was continued from the February 24, 1987 meeting. This ordinance passed first reading at the March 3, 1987 meeting.

Mayor Bissette said this ordinance was previously read on first reading and will not be reread in its entirety. He said any individual requesting a copy of the ordinance will be furnished one at no cost.

Ralph Bishop spoke in opposition to the ordinance, and requested a copy of Ordinance No. 1634.

ADJOURNMENT

Upon motion of Councilman Price, seconded by Councilman Tisdale, the meeting adjourned at 7:45 p.m.

MAYOR

CITY CLERK

APPROVAL OF THE CONSENT AGENDA

4. Mayor Bissette said the following items are of a routine nature and they have been previously reviewed by the members of the City Council. Therefore, by unanimous vote to approve these items, the City Council may, pursuant to the procedures established in Ordinance No. 1008, adopt all of the items with one motion without the full reading and/or separate motion adopting each individual item. Upon the request of a citizen, a member of the City Council, and/or a member of the City staff, any single item scheduled for approval on the consent agenda may be considered separately.

RESOLUTION NO. 87-42

A. **Resolution authorizing a $2,000 "Fair Share" contribution by the City of Asheville to the State and Local Legal Center.**

HIGHLIGHTS: The State and Local Legal Center was created in 1973 by the National League of Cities, the Council of State Governments, International City Management Association, National Association of Counties, National Conference of State Legislatures, National Governors' Association, and U. S. Conference of Mayors. The center articulates city issues in cases before the U. S. Supreme Court, providing its services at no charge. The center requires financial support from cities, states and counties if it is to continue its efforts on their behalf. Cities are being asked to make a one time payment with the amount based upon population. Cities with populations between 50,000 and 100,000 are being asked to contribute $2,000.

FISCAL IMPACT: One-time payment of $2,000.00. Sufficient funds are available in the Legal Services Division budget.

Resolution Book 16 - Page 293

B. **Motion relative to bids received for a radio communications system for the Asheville Transit Authority.**

HIGHLIGHTS: Sealed bids were invited to furnish the Asheville Transit Authority with a radio communications system consisting of 31 bus communication packages; 1 central dispatch console; 1 base station and 9 supervisory and maintenance radio packages. One bid was received. This bid was from Motorola Communications and Electronics, Inc. in Asheville.

FISCAL IMPACT: $99,448.00 - This purchase is approved by UMTA Project No. NC-90-X046 and funding to be from Account No. 67-916-0740.

Neil Meyer said he had recently purchased the Tops Service Station in Biltmore, and requested that this property be excluded from the Biltmore Village Historic District. He said he was concerned that he could not adhere to the Historic Resources Commission guidelines. He said he proposes to renovate the service station into the country store look, and was optimistic that what he has planned will blend with the Biltmore Village theme. He also requested a copy of Ordinance No. 1634.

Mayor Bissette suggested that Mr. Meyer talk with the Director of Historic Resources Commission relative to guidelines for remodeling the Tops Service Station. He said it is Council's desire that all guidelines be reasonable.

On a roll call vote of 5-2, Ordinance No. 1634 passed on second reading.

Councilman Michalove noted that he voted "No" on Ordinance No. 1634 because he felt the current district, as proposed, goes beyond the historic district. He said the historic district boundary should be at the Hendersonville Road line. He said if it is Council's desire to have a historic district that is to be developed for the future, then he felt the proposed district is not large enough and should go to I-40.

CAPITAL IMPROVEMENT PLAN FOR FISCAL YEAR 1987-88 - APPROVAL

3. Consideration was given a motion approving the Capital Improvement Plan for Fiscal Year 1987/88.

Mayor Bissette said the City Council of the City of Asheville has recognized the need to provide funding to address long range capital needs of the City. The Capital Improvement Plan for Fiscal Year's 1987/88 through 1992/93 as presented to City Council on March 10, 1987 recognizes both the funding sources and the capital needs of the City. He said the Capital Improvement Plan provides funding for said needs in the amount of $72,896,558 for the period Fiscal Year 1987/88 through Fiscal Year 1992/93.

Mayor Bissette noted that the Capital Improvement Plan is a balanced six-year plan that anticipates virtually every capital need the City will have for the next six years and also allocates revenues for each of those expenditures. He said Asheville has, in the past, used an annual capital budget that has met the immediate needs of the City but has not promoted long-range planning for the replacement of vehicles, buildings, and other City-owned property. He said the plan includes street and sidewalk improvements to be budgeted with the $17,000,000 in bond funds, vehicles, fire trucks, renovation of the City Hall Building, a new Public Works complex and municipal building, and a new radio communication system, as well as a number of improvements to the City's Parks and Recreation system. He said members of Council previously reviewed the plan in detail.

Vice-Mayor Frank moved to approve the Capital Improvement Plan for Fiscal Year 1987/88. This motion was seconded by Councilman Michalove and carried unanimously.

RALPH BISHOP - LOTTERY SALES IN THE CITY OF ASHEVILLE

7. Ralph Bishop again spoke to members of Council relative to the lottery sales in the City of Asheville.

JOHNNY WALSH - REQUESTING STATEMENT FROM MAYOR

8. Johnny Walsh spoke to members of Council relative to his attendance at a Crime Prevention Commission Meeting, and requested a statement from the Mayor prior to his being subpoenaed as a hostile witness.

CLAIMS - THEODORE CREASMAN (POLICE) - CHARLIE FOX (WATER) - JIMMY SULLIVAN (WATER)

9. The City Manager presented claims received from Theodore Creasman, Charlie Fox, and Jimmy Sullivan.

Mayor Bissette referred the claims to the Corporation Counsel for investigation and recommendation.

ADJOURNMENT

Upon motion of Councilman Price, seconded by Councilman Boland, the meeting adjourned at 4:45 p.m.

MAYOR

CITY CLERK

C. **Motion to schedule a public hearing relative to rezoning Lot 93, Sheet 55, Ward 7 from R-5 Residential District to CS Commercial Service District for March 31, 1987.**

HIGHLIGHTS: The Asheville Planning and Zoning Commission at a meeting held February 18, 1987, considered the petition of Mr. George Morosani, Agent for Mr. David Knapp, Owner, that Lot 93, Sheet 55, Ward 7, be rezoned from R-5 Residential District to CS Commercial Service District. The property is located off Sweeten Creek Road. After review and discussion, the Commission voted to recommend to City Council that Lot 93, Sheet 55, Ward 7, be rezoned from R-5 Residential District to CS Commercial Service District.

FISCAL IMPACT: None

D. **Motion relative to bids received for automobiles and trucks for the Asheville Police Department and Public Works Department.**

HIGHLIGHTS: Sealed bids were invited to furnish twelve (12) Patrol (blue and white), five (5) Unmarked Police Vehicles, one (1) full size station wagon and one (1) mid size station wagon for the Police Department and three (3) 1/2 ton pick-up trucks for the Public Works Department. It is recommended to award this bid to Matthews Ford, Inc. for the cars and to Carolina Truck & Body Company for the trucks.

FISCAL IMPACT: Funding in FY 1986-87 Capital Budget. Amount budgeted Police - $240,729.00 - Public Works - $30,000.00

Upon motion of Councilman Boland, seconded by Councilman Price, the Consent Agenda was unanimously approved.

GEORGE E. BANCROFT ELECTED TO CIVIL SERVICE BOARD

5. The City Manager presented the Certification of the Board of Canvassers for the Asheville Civil Service Board, stating that at an election held on March 5, 1987, the City employees elected George Bancroft as a member of the Civil Service Board.

REQUEST FOR PARADE PERMIT - BUNCOMBE COUNTY VETERANS COUNCIL

6. Robert E. Waldrup with the Buncombe County Veterans Council requested a parade permit for a Veterans Day Parade on November 11, 1987.

Mayor Bissette informed Mr. Waldrup that the City staff would be in contact with him relative to the parade permit.

Upon motion of Councilman Price, seconded by Vice-Mayor Frank, Resolution No. 87-43 was unanimously adopted.

Complete text of Resolution No. 87-43 will be found in Resolution Book No. 16 at page 294.

PUBLIC HEARING - HEAD OF MONTFORD REDEVELOPMENT PLAN

RESOLUTION NO. 87-45 - RESOLUTION APPROVING THE REDEVELOPMENT PLAN FOR THE HEAD OF MONTFORD/HILL STREET/CHERRY STREET REDEVELOPMENT AREA

3. A public hearing relative to the Head of Montford Redevelopment Plan continued.

Mayor Bissette said the Asheville Planning and Zoning Commission certified the area to be a Blighted Redevelopment Area under N.C.G.S. 160A-500-526 on November 12, 1986. The plan was prepared by the Head of Montford Planning Committee and staff of the City Planning Department and Asheville Housing Authority. The plan was approved by the Asheville Housing Authority on January 13, 1987, and by the Asheville Planning and Zoning Commission January 14, 1987. This public hearing was continued from the March 3, 1987 meeting. He said the cost of the entire Head of Montford Redevelopment Project is estimated at $17,326,058.00. The City has committed $688,000.00 in CDBG Funds to the project to date.

Julie Cogburn, with the Planning Department, summarized changes in the Redevelopment Plan in response to questions raised at the March 3, 1987 meeting. She said the proposed amendment outlines in detail what is to be done relative to project activity, acquisition, and funding in the first year plan.

Upon inquiry of Councilman Bratton, Larry Holt defined major and minor revisions as land use changes and major expenditures which would require approval from the Montford Community Club, The Housing Authority, and the Asheville City Council. He said, for example, the acquisition of an additional piece of property, utility changes and infrastructure changes would be authorized by the Housing Authority as minor revisions.

Upon inquiry of Councilman Tisdale, Julie Cogburn said there were no owner/occupied dwellings to be acquired in the first year plan.

Councilman Michalove noted that the three-page report, as summarized by Julie Cogburn, would be attached to the resolution as Attachment A.

Ralph Bishop spoke in opposition to the Redevelopment Plan.

Ernie Thurston, with the Montford Planning Committee, thanked members of Council and the City staff for their time and effort in developing the Redevelopment Plan.

Jim Cairnes of 209 Cumberland Avenue requested unanimous support of the Head of Montford Redevelopment Plan.

Clarence Benton of Courtland Place spoke to members of Council stating that he had not been contacted by any of the Montford Planning Committee

Tuesday - March 17, 1987 - 4:00 p.m.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Mary Lloyd Frank; Councilmen Wilhelmina Bratton, Walter R. Boland; Kenneth M. Michalove, Norma T. Price, and George M. Tisdale; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: None

INVOCATION

At the request of Councilman Tisdale, the audience stood for the Pledge of Allegiance to the Flag. The invocation was given by Councilman Tisdale.

APPROVAL OF THE MINUTES - MARCH 10, 1987 MEETING

1. Consideration was given to the approval of the minutes of the March 10, 1987 meeting.

Mayor Bissette announced the approval of the minutes as submitted.

RESOLUTION NO. 87-44 - RESOLUTION IN MEMORIAM OF HARRY W. CLARKE

1a. Consideration was given to a resolution in memoriam of Harry W. Clarke expressing Council's sorrow over his recent passing.

Mayor Bissette read the resolution.

Upon motion of Vice-Mayor Frank, seconded by Councilman Tisdale, Resolution No. 87-44 was unanimously adopted.

Complete text of Resolution No. 87-44 will be found in Resolution Book No. 16 at page 295.

RESOLUTION NO. 87-43 - RESOLUTION COMMENDING ASHEVILLE HIGH SCHOOL FOR ITS PARTICIPATION IN THE INTERNATIONAL EXCHANGE PROGRAM AND RECOGNIZING THE FOREIGN EXCHANGE STUDENTS AND TEACHER FROM JAPAN, FRANCE, GERMANY, NORWAY, AND JORDAN THAT ARE PARTICIPATING IN THE PROGRAM

2. Consideration was given to a resolution commending Asheville High School for its participation in the International Exchange Program and recognizing the foreign exchange students and teacher from Japan, France, Germany, Norway, and Jordan that are participating in the program.

Mayor Bissette read the resolution.

Mr. Sherrill, Principal of Asheville High School, introduced the instructor from Kofu Junior High School, Kofu, Japan. The instructor introduced the students, and Mayor Bissette presented each student with a welcome letter and a copy of the resolution.

Mayor Bissette said the City Council of the City of Asheville has decided to create an additional historic district for the City of Asheville. That district will be known as the Biltmore Village Historic District. The Montford Historic District is described and is regulated in Article 13 of Chapter 30 of the Code of Ordinances of the City of Asheville. The Chestnut-Liberty Historic District is described and is regulated in Article 14 of the Code of Ordinances. Since the provisions regulating the Districts should be identical, it would be more convenient to include all of the Districts in the same Article of the Code of Ordinances of the City of Asheville. This ordinance passed first reading at the March 3, 1987 meeting and second reading at the March 10, 1987 meeting.

Mayor Bissette said this ordinance was previously read on first and second reading and would not be reread in its entirety.

Mayor Bissette said he had received comments from property owners and tenants in the Biltmore Village area requesting that the Local Historic Committee be made up from broad based representation, including merchants and property owners in the Biltmore area. He requested that Council members be notified of the potential members of the Local Historic Committee.

Ralph Bishop spoke in opposition to the ordinance.

_____, member of the Historic Resources Commission, invited Council to the Preservation Society Meeting at 7:30 p.m. on March 18, 1987, on the Lord Auditorium relative to a update on the Montford Historic area.

On a roll call vote of 5-2, Ordinance No. 1624 passed on third and final reading, with Councilman Michalove and Councilman Boland voting "no".

Complete text of Ordinance No. 1624 will be found in Ordinance Book No. 11 at Page 110-125.

RESOLUTION NO. 87-46 - RESOLUTION OF INTENT TO CLOSE AN UNNAMED ROAD BETWEEN PATTON AVENUE AND OLD HAYWOOD ROAD AND CALLING A PUBLIC HEARING ON QUESTION FOR APRIL 28, 1987

5. Consideration was given to a Resolution of Intent to close an unnamed road between Patton Avenue and Old Haywood Road, and calling a public hearing on the question for April 28, 1987.

Mayor Bissette said a petition has been filed by Mary R. Thrash, owner of property adjoining an unnamed roadway, between Patton Avenue and Old Haywood Road, asking that said unnamed road adjoining lots 1-3/4 and 89 of Ward 5, Sheet 24, and lots 72 and 73 of Ward 5, Sheet 29, of the Buncombe County Tax Maps be permanently closed to public use. The unnamed roadway is under the sole and exclusive authority and control of the City of Asheville and is not under the control and authority of the North Carolina Department of Transportation. The permanent closing of said unnamed roadway will not be either detrimental to or contrary to the public interest or the property rights of any individual and no individual owning property in the vicinity of the unnamed roadway will, by the permanent closing of the roadway be deprived of reasonable means of ingress and egress to his property.

members or the City staff relative to the Redevelopment Plan. He questioned how many residents would be required to be relocated under this plan. He also stated that he felt when residences were demolished, that residences should be put back on that parcel.

Julie Cogburn responsed to Mr. Benton, stating the plan does not call for massive relocation of existing residents. She reviewed the land use plan map for Mr. Benton.

Tony Clarke-Sayer of 30 Blake Street, Chairman of the Montford Planning Committee, spoke in support of the Redevelopment Plan. He said it was his hope that the Montfor Planning Committee and the City staff could continue working together on this plan that will be a credit to the neighborhood and the City.

Mayor Bissette requested that Corporation Counsel Slawter and Julie Cogburn meet with Clarence Benton to review the map and Redevelopment Plan.

Councilman Boland said that he felt Council and the City staff should make every effort toward stimulating infill housing in the area as well as rehabilitation.

Mayor Bissette closed the public hearing at 5:11 p.m.

Mayor Bissette said members of Council were previously furnished copies of the resolution and it would not be read in its entirety. He said any individual requesting a copy of the resolution would be furnished one at no cost.

Upon motion of Councilman Bratton, seconded by Councilman Price, Resolution No. 87-45 was unanimously adopted.

Councilman Michalove said he was concerned about the large impact on financial resources in order to implement the plan. He requested that Council members go on record, that for at least the next three years, and as long as Community Development Block Funds are available, that the majority of the discretionary funds from Community Development go to the Montford redevelopment area. He said he felt this action would help to make the neighborhood feel that there is a commitment by the City beyond the $688,000 that has previously been appropriated. He requested that Council members adopt a motion relative to his request, particularly for the benefit of future Council members.

Mayor Bissette noted that the Corporation Counsel and Marvin Vierra with the Community Development Department, and Councilman Michalove work on the wording of a motion relative to the use of the Community Development funds for the Montford Redevelopment plan for action at next week's meeting.

ORDINANCE NO. 1624 - AN ORDINANCE AMENDING ARTICLE 13 OF CHAPTER 30 OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE TO CREATE THE BILTMORE VILLAGE HISTORIC DISTRICT AND TO INCLUDE THE CHESTNUT-LIBERTY HISTORIC DISTRICT

4. Consideration was given to the third reading of Ordinance No. 1624, an ordinance relative to amending Article 13 of Chapter 30 of the Code of Ordinances of the City of Asheville to create the Biltmore Village Historic District, and to include the Chestnut-Liberty Historic District.

LAWSUITS - GRACE BALLEW VS. CITY OF ASHEVILLE (PERSONAL INJURY)

8. The City Manager said the City was served on March 9, 1987, with a lawsuit involving Grace Ballew vs. the City of Asheville in regards to a personal injury - fall on stairs at Civic Center.

Mayor Bissette referred the lawsuit to the Corporation Counsel for investigation and recommendation.

RALPH BISHOP - LOTTERY SALES

8. Ralph Bishop again spoke to members of Council relative to the lottery sales in the City of Asheville.

PRESENTATION OF ASHEVILLE SCHOOL BOARD NOMINATIONS

9. Mayor Bissette presented the following names as candidates for appointment to the Asheville School Board. He said the entire list would be posted in the City Clerk's office.

Bacon, Thomas J.
72 Brookwood Road
Asheville, NC 28804

Bryson, Dick
P. O. Box 15011
Asheville, NC 28803

Chicurel, Isaac N.
141 Deerlake Drive
Asheville, NC 28803

Coleman, Wanda Henry
146 Blanton Street
Asheville, NC 28801

Dabney, Thomas F.
19 Rolling View Drive
Asheville, NC 28805

Davis, Rosa
60 Taft Avenue
Asheville, NC 28803

Delany, Logan D., Sr.
36 Bartlett Street
Asheville, NC 28801

Ferikes, Joseph A.
200 Bent Tree Road
Asheville, NC 28804

Haynes, Harlen F.
14 Spooks Branch Road
Asheville, NC 28804

Hillier, David R.
144 Stratford Road
Asheville, NC 28804

Holcombe, Ms. Betty
49 Mildred Avenue
Asheville, NC 28806

Holt, Larry D.
21 Farrwood Avenue
Asheville, NC 28804

Horton, Bill B.
49 Tampa Avenue
Asheville, NC 28806

Howard, Sara Jo
433 Fairview Road
Asheville, NC 28803

Iovacchini, Dr. Eric
17 Marne Road
Asheville, NC 28803

Jernigan, Linda
55 Robinwood Avenue
Asheville, NC 28806

Mayor Bissette said members of Council were previously furnished copies of the resolution, and it would not be read in its entirety. He said any individual requesting a copy of the resolution will be furnished one at no cost.

Upon motion of Councilman Tisdale, seconded by Councilman Price, Resolution No. 87-46 was unanimously adopted.

Complete text of Resolution No. 87-46 will be found in Resolution Book No. 16 at Page 298.

RESOLUTION NO. 87-47 - RESOLUTION OF INTENT TO CLOSE AN UNNAMED ALLEY BETWEEN PICKWICK ROAD AND AN UNNAMED ALLEY IN REAR OF LOTS FRONTING PICKWICK ROAD AND CALLING A PUBLIC HEARING ON QUESTION FOR APRIL 28, 1987

6. Consideration was given to a Resolution of Intent to close an unnamed alley between Pickwick Road and an unnamed alley in rear of Lots fronting Pickwick Road and calling a public hearing on the question for April 28, 1987.

Mayor Bissette said a petition has been filed by David L. and Mary G. Evers, owners of property adjoining an unnamed alley between Pickwick Road and an unnamed alley in the rear of property fronting Pickwick Road, asking that said unnamed alley adjoining Lots 146 and 148 of Ward 8, Sheet 2, of the Buncombe County Tax Maps, also shown as Lots 11 and 12 of Plat Book 5, Page 79 of a plat recorded in the Register of Deeds Office of Buncombe County, be permanently closed to public use. The unnamed alley is under the sole and exclusive authority and control of the City of Asheville and not the North Carolina Department of Transportation. The permanent closing of said unnamed alley will not be either detrimental to or contrary to the public interest or the property rights of any individual and no individual owning property in the vicinity of the unnamed alley will be deprived of reasonable means of ingress and egress to his property.

Mayor Bissette said members of Council were previously furnished copies of the resolution and it would not be read in its entirety. He said any individual requesting a copy of the resolution would be furnished one at no cost.

Upon motion of Councilman Boland, seconded by Vice-Mayor Frank, Resolution No. 87-47 was unanimously adopted.

Complete text of Resolution No. 87-47 will be found in Resolution Book No. 16 at Page 299.

CLAIMS - SHIRLEY BRADLEY (WATER)

7. The City Manager presented a claim received from Shirley Bradley.

Mayor Bissette referred the claim to the Corporation Counsel for investigation and recommendation.

Fetty, Rosaleen
44 Bent Tree Road
Asheville, NC 28804

Gran, Willa (Mrs. Doublas)
29 Linden Avenue
Asheville, NC 28801

Green, Kevin
12 Chateau Place
Asheville, NC 28801

Haldane, Douglas W.
12 Brookwood Road
Asheville, NC 28804

McDevitt, Dershie B.
56 Elk Mountain Scenic Hwy.
Asheville, NC 28804

Morris, Sara M.
P. O. Box 8732
Asheville, NC 28804

Phillips, Jeanne Roberts
P-3 Crowfields
Asheville, NC 28803

Ramsey, Harry E.
Edgewood Knoll
Asheville, NC 28804

Schramm, Sara Ellen
222 Brevard Road
Asheville, NC 28806

Smith, Carol Jean, M.D.
38 Homeland Park
Asheville, NC 28805

Winner, Linda C.
67 Stratford Road
Asheville, NC 28804

Cooper, Betty H.

Kazimir, Larry
74 St. Dunstan's Circle
Asheville, NC 28803

Kouns, John H. "Jack"
18 Stockwood Road
Asheville, NC 28803

Marshall, Lyman R.
10 Northwood Road
Asheville, NC 28804

McCoy, Oscar L.
268 South French Broad
Asheville, NC 28801

McElrath, Virginia
2 Pine Meadows Drive
Asheville, NC 28804

Oglesby, Erby R.
60 Kimberly Avenue
Asheville, NC 28804

Phillips, John Carnes, M.D.
P-3 Crowfields
Asheville, NC 28803

Ray, Kieth
31 Wildwood Avenue
Asheville, NC 28804

Scully, Bonnie D.
17 Blue Briar Road
Asheville, NC 28804

Smith, Robert G.
193 Tocoma Circle
Asheville, NC 28801

York, Mrs. A. Robert
174 Beaverdam Road
Asheville, NC 28804

ADJOURNMENT

Mayor Bissette adjourned the meeting at 5:30 p.m.

Mayor

City Clerk

DEPARTMENT OF CULTURAL RESOURCES
DIVISION OF ARCHIVES AND HISTORY
ARCHIVES AND RECORDS SECTION

CERTIFICATE OF AUTHENTICITY

This is to certify that the microphotographs appearing on this film are true and accurate reproductions of records originated during the normal course of business by the Buncombe County City of Asheville

and consist of City Council Minutes

The records begin with Vol. 46, May 3, 1979

and end with Vol. 54, March 17, 1987

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